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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DAVIS & GILBERT LLP,

Plaintiff,

vs.

SAMANTHA RONSON,

Defendant.

Index No. 08-CV-02876-JSR

**DECLARATION OF DAVID M. BASS IN  
SUPPORT OF DEFENDANT SAMANTHA  
RONSON'S MOTION TO DISMISS FOR  
LACK OF PERSONAL JURISDICTION;  
OR, IN THE ALTERNATIVE, TO DISMISS  
FOR IMPROPER VENUE; OR, IN THE  
ALTERNATIVE, TO TRANSFER FOR  
IMPROPER VENUE; OR, IN THE  
ALTERNATIVE, TO TRANSFER FOR  
CONVENIENCE**

Date: July 15, 2008  
Time: 5:00 p.m.  
Courtroom: 14B

I, David M. Bass, hereby declare, under penalty of perjury, as follows:

1. I am an attorney duly licensed to practice law in the State of California. My firm, David M. Bass & Associates (“DBA”), is assisting Ira David Tokayer, Esq., who is counsel of record for Defendant Samantha Ronson (“Ronson”) in this action. My colleague, Peter M. Cho, who is admitted to practice law in the State of New York, is co-counsel for Ronson in this action. I am also counsel of record for Ronson in an action entitled *Samantha Ronson v. Sunset Photo and News, LLC et al.*, Los Angeles County Superior Court Case No. BC374174 (the

“Defamation Action”). On or about December 18, 2007, DBA substituted in as counsel of record for Ronson in the Defamation Action in place of Martin Garbus, Esq. (“Garbus”) and his law firm, Plaintiff Davis & Gilbert LLP (“D&G” or “Plaintiff”). This action involves a claim by D&G against Ronson for attorneys’ fees and costs allegedly incurred by D&G in connection with its representation of Ronson in the Defamation Action. Unless otherwise stated, I have personal knowledge of the facts set forth in this Declaration and, if called upon to testify as a witness, I could and would competently testify to these facts.

2. I have reviewed DBA’s files and records in connection with the Defamation Action. Except where otherwise stated, all of the pleadings, hearing transcripts, and other documents attached as exhibits to this declaration are true and correct copies of documents taken from DBA’s files.

3. On or about December 18, 2007, as part of the transition of Ronson’s counsel in the Defamation Action from D&G to DBA, I requested and received a compact disc from Garbus, which contained email communications to and from Garbus regarding the Defamation Action. These included emails between Garbus and (i) Ronson; (ii) Ronson’s business manager, Tom Reed (“Reed”), and (iii) lawyers at Bingham McCutchen LLP (“Bingham”), Ronson’s local counsel in the Defamation Action during the time she also was represented by D&G. All of the emails attached as exhibits to this declaration are true and correct copies of emails from that compact disc.

#### ***Lavandeira’s Defamatory Postings Concerning Ronson***

4. On or about May 26, 2007, various news outlets began reporting that Lindsay Lohan (“Lohan”) was involved in a car accident that morning (the “Accident”), and that Ronson was a passenger in Lohan’s car at the time of the Accident. (Copies of a sampling out of 58 articles regarding the Accident are attached hereto as Exhibit A.)

5. On or about June 1, 2007, Mario Lavandeira began authoring and publishing a series of posts (the “Postings”) on his tabloid website, [www.perezhilton.com](http://www.perezhilton.com), concerning the car accident. In the Postings, Lavandeira made the following statements regarding Ronson:

- a. [T]he cocaine that was found in Lohan’s car after her crash may have been RONSON’S!
- b. [Ronson] has been selling out Lohan to the paparazzi.
- c. [Ronson] entered into an agreement with a photo agency to tip them off to her whereabouts with Lindsay [Lohan], even creating photo-ops for them.
- d. [Lohan had been] betrayed by her “lezbot DJ” pal Samantha Ronson.

(Copies of the Postings are attached hereto as Exhibit B.)

***Ronson Retains D&G as her Counsel; Lavandeira Files his Motion to Strike***

6. On or about June 19, 2007, Ronson retained D&G and Garbus to prosecute a complaint for defamation against Lavandeira in Los Angeles, California. Garbus retained Bingham to serve as local counsel. On or about July 12, 2007, D&G and Garbus commenced an action against Lavandeira and others in the Los Angeles County Superior Court by filing a Complaint in the Defamation Action. (The Complaint is attached hereto as Exhibit C.) Garbus never obtained an order from the Court admitting him and D&G *pro hac vice* in the Defamation Action.

7. On or about September 4, 2007, Lavandeira filed a Motion to Strike the Complaint under Section 425.16 of the California Code of Civil Procedure (the “Motion to Strike”), on the grounds that (i) Section 425.16 applied to the Complaint because Ronson was a public figure, and (ii) Ronson lacked evidence that Lavandeira’s statements were made with actual malice, an element of defamation asserted by public figures. (The Motion to Strike and supporting memorandum of points and authorities are attached hereto as Exhibit D.)

***D&G and Garbus Fail to Oppose the Motion to Strike***

8. On or about September 13, 2007, D&G and Garbus, through Bingham, filed a Memorandum of Law in opposition to the Motion to Strike (the “Opposition”). The Opposition was a two-page memorandum which only requested that the Court allow Ronson to conduct limited discovery for the purpose of opposing the Motion to Strike. The Opposition did not give sufficient notice under the California Code of Civil Procedure to obtain such discovery. The Opposition did not substantively oppose the Motion to Strike, other than to summarily conclude that Lavandeira had not met his burden. (The Opposition is attached hereto as Exhibit E.)

9. On September 19, 2007, Lavandeira filed his Reply in Support of Motion to Strike (the “Reply”). The Reply pointed out that the Opposition filed by D&G and Garbus

is, in actuality, no opposition at all. In fact, ***her entire argument in opposition literally consists of one sentence:*** “As Plaintiff’s Opposition sets forth, Defendants have not met their burden.”

(Lavandeira’s Reply at 1:2-6 (emphasis in original).) The Reply further noted that, “[t]o make matters worse, ***the Opposition appears to be a sloppily prepared ‘cut and paste’ from a different document.***” (Lavandeira’s Reply at 1:14-15 (emphasis in original).) (The Reply is attached hereto as Exhibit F.)

10. Garbus flew out to Los Angeles to appear at the hearing on the Motion to Strike, which took place on September 26, 2007. That day, Garbus filed an *Ex Parte* Application to Appear *Pro Hac Vice* in the Defamation Action. The Court denied that Application. After hearing argument by Garbus and Lavandeira’s counsel, the Court continued the hearing on the Motion to Strike to October 10, 2007. The Court further ordered the parties to file supplemental briefs concerning the public figure and malice issues on or before October 3, 2007. (Selected portions of the Transcript of Hearing of September 26, 2007 are attached hereto as Exhibit G.)

11. On or about October 2, 2007, D&G and Garbus filed a supplemental brief in opposition to the Motion to Strike on behalf of Ronson. The supplemental brief offered

conclusory arguments on the public figure and malice issues. (The supplemental brief is attached hereto as Exhibit H.)

***The Court Provides D&G and Garbus an Opportunity to Conduct Discovery Required to Successfully Oppose the Motion to Strike***

12. Garbus flew out to Los Angeles again to appear at the October 10, 2007 hearing on the Motion to Strike. At the hearing, the Court granted Ronson's request to depose Lavandeira on or before October 19, 2007. The Court also ordered the parties to submit further supplemental briefs following the deposition and continued the hearing on the Motion to Strike to November 1, 2007. (The Court's Minute Order of October 10, 2007 is attached hereto as Exhibit I.) Counsel for the parties then set Lavandeira's deposition for October 19, 2007.

***D&G and Garbus Become Adverse to Ronson in October 2007***

13. In October 2007, a dispute arose between Ronson and her attorneys, D&G and Garbus, over the payment of their fees and costs.

14. On October 11, 2007, Garbus sent an email to Ronson and Reed acknowledging that Ronson "had some questions about the bill" dated October 8, 2007. Garbus did not attempt to answer those questions in the email. (Garbus's October 11, 2007 email is attached hereto as Exhibit J.)

15. On October 12, 2007, Garbus sent an email to Reed stating that he would not continue to "run up fees" and represent Ronson without a "substantial payment and a [payment] plan." (Garbus's October 12, 2007 email is attached hereto as Exhibit K.)

16. That same day, Garbus sent another email to Ronson and Reed in which he attached copies of invoices from D&G for work in connection with the Defamation Action, dated July 18, 2007, August 27, 2007 and October 8, 2007. Garbus represented in the email that he would "continue to represent [Ronson] until she does have a new attorney." (Garbus's October 12, 2007 email, together with the attachments, is attached hereto as Exhibit L.)

17. On October 16, 2007, Garbus sent an email to his co-counsel, Bingham attorney D. Wayne Jeffries (“Jeffries”), asking Jeffries about how to place “a lien on a file to protect fees.” (Garbus’s October 16, 2007 email is attached hereto as Exhibit M.)

18. On October 17, 2007, Garbus sent an email to Reed, with a copy to Ronson, attaching an October 17, 2007 invoice from D&G for work in connection with the Defamation Action. Garbus described the invoice as “my final bill which, including the outstanding statements, totals \$141,590.55.” Garbus also attached a promissory “note for five payments of the outstanding bills, starting November 1, 2007, at \$28,318.11 each . . .” (Garbus’s October 17, 2007 email, together with the attachments, is attached hereto as Exhibit N.) Ronson did not sign the promissory note.

#### ***Garbus Threatens to Sue and Publicly Embarrass Ronson***

19. On October 18, 2007, Garbus sent an email to Ronson attaching a draft of his declaration in support of a motion for an order permitting him to withdraw as Ronson’s counsel. Garbus stated in the email that “I do not want to file this declaration. Please call me.” (Garbus’s October 18, 2007 email, together with the attachment, is attached hereto as Exhibit O.)

20. Later that same day, Garbus sent an email to Reed, with a copy to Ronson, in which he turned the prospect of filing his declaration in support of a motion to withdraw into a threat against Ronson. The email states: “The affidavit I sent you will get picked up on the blogs. Avoid it.” (Garbus’s October 18, 2007 email is attached hereto as Exhibit P.)

21. On October 18, 2007, Garbus sent another email to Reed, with a copy to Ronson, in which he stated as follows:

Tom, the faster you get me the consent [to withdrawal], the faster the fees stop. The litigation was, up until recently, ongoing. I told both Samantha and you that the costs for this month until we stopped the litigation would be about \$25,000 per week. The mere ***fact that no one responded does not mean that one can walk away from the case. A lawyer can't. You can't prejudice a client by not doing certain things.***

(Garbus's October 18, 2007 email is attached hereto as Exhibit Q to the Bass Declaration [emphasis added].)

22. On October 23, 2007, only nine days before the final hearing on the Motion to Strike, Garbus sent an email to Ronson and Reed in which he threatened to sue Ronson, and warned of the resulting negative publicity:

Unless I hear from you by Wednesday [October 24, 2007] on the bills, I shall file a suit in New York for the payment of the legal bills. A copy of the draft Summons and Verified Complaint is attached. [¶] Please don't force me to do it. The blogs will pick it up.

(Garbus's October 23, 2007 email, together with the attachments, is attached hereto as Exhibit R.) The draft Summons and Verified Complaint attached by Garbus are almost identical to the Summons and Verified Complaint filed by D&G in New York Supreme Court on November 13, 2007, only three weeks later, discussed in Paragraph 34, below.

***Garbus Falsely Informs the Court and Opposing Counsel  
that Ronson has Discharged Him and D&G***

23. On or about October 16, 2007, Garbus sent a letter to Lavandeira's counsel incorrectly asserting that (i) D&G and Bingham "have been discharged by" Ronson; (ii) they "no longer represent her in the suit against" Lavandeira; and (iii) they "have no authorization to take any actions on her behalf." In that same letter, Garbus confirmed his abandonment of Ronson in the Defamation Action:

The attorney that will represent [Ronson] will contact you concerning the future scheduling of the deposition of Mario Lavandeira and will discuss with you the scheduling of briefs. [¶] She has not yet chosen that attorney but it is clear that she will not have an attorney capable of taking the October 19<sup>th</sup> deposition and will require that that deposition be taken at a later date.

(Garbus's October 16, 2007 letter to Bryan Freedman, Lavandeira's attorney, is attached hereto as Exhibit S.)

24. That same day, Garbus improperly sent a letter to the Court, in which he enclosed his October 16, 2007 letter to Lavendeira. Garbus stated in the letter to the Court that Ronson “is now seeking other counsel to represent her,” and inaccurately contended that his “firm and the Bingham McCutchen firm have been discharged” by Ronson. (Garbus’s October 16, 2007 letter, without the enclosure, is attached hereto as Exhibit T). Notwithstanding that contention, both firms remained counsel for Ronson in the Defamation Action. Garbus sent the letter to the Court even though Jeffries, his co-counsel at Bingham, informed Garbus in an email that day that some judges do not accept “writings, other than filed documents” and that “writing to the judge will likely not help.” (Jeffries’ October 16, 2007 email to Garbus and others is attached hereto as Exhibit U.)

***Garbus Informs Ronson that She Will Have to Represent Herself  
at the Hearing on the Motion to Strike***

25. On October 24, 2007, only one week before the November 1, 2007 hearing on the Motion to Strike, Garbus’s co-counsel, Jeffries, sent an email to Garbus in which he made clear to Garbus that, without a new attorney in place, D&G would have to file a motion to withdraw as Ronson’s counsel and that “[s]omeone has to represent her in the case.” (Jeffries’ October 24, 2007 email is attached hereto as Exhibit V.)

26. That same day, Garbus sent an email to Ronson and Reed in which he advised Ronson that unless she had a new lawyer before the November 1, 2007 hearing, **Ronson “must appear on her own behalf.”** (Garbus’s October 24, 2007 email is attached hereto as Exhibit W [emphasis added].)

27. Faced with the possibility that she would have to appear at the hearing and represent herself, Ronson sent an email to Garbus on October 24, 2007, asking him to dismiss the case. (Ronson’s October 24, 2007 email is attached hereto as Exhibit X.)

28. In response to Ronson's email, Garbus sent her an email later that day, which only states: "Will I be getting paid[?]" (Garbus's October 24, 2007 email is attached hereto as Exhibit Y.)

29. Just one day before the November 1, 2007 hearing on the Motion to Strike, Garbus sent an email to Reed in which he threatened to file his complaint for fees against Ronson unless he received a "payment of substantial funds" by November 2, 2007. (Garbus's October 31, 2007 email is attached hereto as Exhibit Z.)

***D&G and Garbus Abandon any Opposition to the Motion to Strike***

30. Garbus failed to conduct Lavandeira's deposition on October 19, 2007. He failed to take the deposition even though Jeffries, his co-counsel at Bingham, sent Garbus an email four days earlier in which he informed Garbus that "[y]ou are going to have to take the depo on [F]riday unless [F]reedman [Lavandeira's counsel] agrees to move it." (Jeffries' October 15, 2007 email to Garbus is attached hereto as Exhibit AA.)

31. On or about October 29, 2007, Lavandeira filed a Supplemental Brief in Support of the Motion to Strike (the "Supplemental Brief"). Lavandeira accurately noted in the Supplemental Brief that, as of October 29, 2007, "no motion to be relieved as counsel or substitution of attorney form has been filed with the Court," and that Lavandeira's "deposition did not take place by October 19, 2007 as ordered by the Court." (Supplemental Brief at 1:18-20 (emphasis omitted).) (The Supplemental Brief and supporting declarations, without the exhibits thereto, are attached hereto as Exhibit BB.)

32. As of November 1, 2007, D&G and Garbus had failed to: (i) take the deposition of Lavandeira; and (ii) submit a supplemental brief in advance of the November 1, 2007 hearing on the Motion to Strike. Moreover, Garbus and Jeffries sent emails to each other in which each assumed that the other person would attend and argue on Ronson's behalf at the November 1, 2007 hearing. (Jeffries' October 31, 2007 email and Garbus's November 1, 2007 email are attached hereto as Exhibits CC and DD, respectively.)

33. Jeffries appeared on behalf of Ronson at the November 1, 2007 hearing, but did not make a single argument in opposition to the Motion to Strike. At the conclusion of the hearing, the Court granted the Motion to Strike. In granting the Motion to Strike, the Court stated, among other things, as follows:

Plaintiff [Ronson] has not presented evidence to show that any statements made by the defendants were made with malice or reckless indifference. *Plaintiff has not filed any supplemental papers, notwithstanding the fact that the court gave [Plaintiff] an opportunity to take the deposition of Lavandeira and to file supplemental papers.* Thus, plaintiff has not met her burden to show a probability of prevailing even on the minimum evidentiary standard that is required in a SLAPP motion . . .

Transcript of Hearing of November 1, 2007, at 16:5-13 (emphasis added.) (Selected portions of the Transcript of Hearing of November 1, 2007 and the Court's Minute Order of November 1, 2007, are attached hereto as Exhibits EE and FF, respectively.)

***D&G Files an Action against Ronson while  
Still Counsel for Ronson in the Defamation Action***

34. On or about November 13, 2007, Garbus, on behalf of D&G, filed an action against Ronson in the Supreme Court of the City of New York, County of New York, entitled *Davis & Gilbert LLP v. Samantha Ronson*, Index No. 603759-07 (the "First New York Action"). D&G alleged in the First New York Action that it was owed \$141,590.55 and Bingham was owed \$23,340.17 in attorneys' fees and costs in connection with their work in the Defamation Action. (Copies of the Summons and Verified Complaint in the First New York Action are attached hereto as Exhibit GG.)

35. At the time Garbus and D&G commenced the First New York Action, they were still counsel for Ronson in the Defamation Action and had not been fired or discharged by Ronson.

36. On or about December 18, 2007, DBA substituted in as counsel of record for Ronson in the Defamation Action, in place of Garbus and D&G. In the Substitution of Attorney form filed in the Defamation Action, DBA mistakenly stated that Garbus had been admitted *pro hac vice* because it had been led to believe that Garbus had been so admitted. (The Substitution of Attorney Form is attached hereto as Exhibit HH).

37. On or about December 11, 2007, Ronson removed the First New York Action to this Court. On or about January 22, 2008, D&G dismissed the First New York Action without prejudice.

38. On or about March 18, 2008, D&G filed this action.

***Ronson's Action Against D&G and Garbus***

39. On or about May 1, 2008, DBA, on behalf of Ronson, filed a Complaint for (1) Negligence; (2) Breach of Contract; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; and (4) Breach of Fiduciary Duty against D&G, Garbus, and Bingham in the action entitled *Samantha Ronson v. Martin Garbus, et al.*, Los Angeles County Superior Court Case No. BC390043 (the “Malpractice Action.”) (A true and correct copy of the face page of the Complaint in the Malpractice Action is attached hereto as Exhibit II). Counsel for D&G and Garbus has appeared in the Malpractice Action and has served Notices of Deposition upon DBA seeking to take my deposition, as well as the depositions of Ronson, Lohan, Reed, and Reed’s wife. Counsel for D&G and Garbus has noticed all of these depositions for Los Angeles, California.

***The Witnesses and Evidence are Located  
in the Central District of California***

40. It would be unfair and seriously inconvenient for Ronson, a resident of Los Angeles, California, to have to defend this action in New York. As discussed below, all of the potential witnesses in this action other than Garbus are located in the Los Angeles area.

41. The following are the names and addresses of persons known to be percipient witnesses to any of the matters raised in the pleadings in this action, and the matters upon which they are expected to testify:

(1) Tom Reed; 23622 Calabasas Road, Suite 101, Calabasas, CA 91302.

Reed is Ronson's business manager. He will testify to the formation of the attorney-client relationship between D&G and Ronson in California, Garbus's frequent visits to Los Angeles regarding the Defamation Action, and D&G's abandonment of the Defamation Action, among other matters.

(2) Bruce Friedman, Esq.; 1620 26th Street, 4th Floor, North Tower, Santa Monica, CA 90404. Mr. Friedman, an attorney at Bingham, served as local counsel for Ronson in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(3) D. Wayne Jeffries, Esq.; 1620 26th Street, 4th Floor, North Tower, Santa Monica, CA 90404. Jeffries, an attorney at Bingham, served as local counsel for Ronson in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(4) Gina Simas, Esq.; 1620 26th Street, 4th Floor, North Tower, Santa Monica, CA 90404. Ms. Simas, an attorney at Bingham, served as local counsel for Ronson in the Defamation Action. She will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(5) Donna McGee; 1620 26th Street, 4th Floor, North Tower, Santa Monica, CA 90404. Ms. McGee, a Bingham employee, will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(6) Bryan Freedman, Esq.; 1901 Avenue of the Stars, Suite 500, Los Angeles, CA 90067. Mr. Freedman is an attorney at Freedman & Taitelman, LLP, co-counsel for Lavandeira in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(7) Jacqueline Brown, Esq.; 1901 Avenue of the Stars, Suite 500, Los Angeles, CA 90067. Ms. Brown is an attorney at Freedman & Taitelman, LLP, co-counsel for Lavandeira in the Defamation Action. She will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(8) Gregory Doll, Esq.; 1888 Century Park East, Suite 1106, Los Angeles, CA 90067. Mr. Doll is an attorney at Doll Amir & Eley LLP, co-counsel for Lavandeira in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(9) Michael Amir, Esq.; 1888 Century Park East, Suite 1106, Los Angeles, CA 90067. Mr. Amir is an attorney at Doll Amir & Eley LLP, co-counsel for Lavandeira in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and

D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(10) Maurice Wainer, Esq.; 270 North Canon Dr., Penthouse, Beverly Hills, CA 90210. Mr. Wainer was counsel for Defendants Sunset Photo and Jill Ishkanian in the Defamation Action. He will testify to Garbus's frequent visits to Los Angeles regarding the Defamation Action, D&G's abandonment of the Defamation Action, and D&G's acts of malpractice in connection with the Defamation Action, among other matters.

(11) Mario Lavandeira; c/o Bryan Freedman, Esq.; 1901 Avenue of the Stars, Suite 500, Los Angeles, CA 90067. Mr. Lavandeira will testify to the facts and circumstances underlying the Defamation Action, among other matters.

42. The interests of justice and the convenience of the parties and witnesses would be served by transferring this action to the Central District of Los Angeles for the following reasons:

(1) It would be burdensome and inconvenient for the witnesses identified herein to attend trial in New York because of the expense of travel and time away from their business and other pursuits.

(2) It would not be possible to subpoena the third party witnesses identified herein for trial in New York; and they are subject to subpoena in the district to which transfer is sought; and

(3) All of the books and records of the witnesses identified herein are located in the district to which transfer is sought.

Dated: Los Angeles, California  
June 2, 2008

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/s/  
DAVID M. BASS

**Exhibit A**

Lindsay Lohan arrested on suspicion of drunken driving; police find...

<http://www.iht.com/bin/print.php?id=5879059>

**INTERNATIONAL**  
**Herald Tribune**

## Lindsay Lohan arrested on suspicion of drunken driving; police find possible cocaine

**The Associated Press**  
 Saturday, May 26, 2007

**BEVERLY HILLS, California:** Lindsay Lohan was arrested on suspicion of driving under the influence after her convertible struck a curb, and investigators found what they believe is cocaine at the scene, police said.

Lohan, 20, and two other people were in her 2005 Mercedes SL-65 when it crashed on Sunset Boulevard around 5:30 a.m. Saturday, Sgt. Mike Foxen said. It appeared Lohan was speeding, Lt. Mitch McCann said at an afternoon news conference.

Officers at the scene found a "usable amount" of a drug tentatively identified as cocaine, McCann said. He declined to say where the drug was found other than to say Lohan was not carrying it.

Lohan, who spent time at a rehabilitation center earlier this year, was driven in another car to a hospital for treatment of minor injuries, McCann said. The two other people in her car were not hurt.

Officers received an emergency call about the accident and arrested Lohan at the hospital for investigation of misdemeanor driving under the influence of alcohol or drugs, McCann said.

She was released from custody because she was admitted to the hospital, police said.

McCann declined to comment on Lohan's blood-alcohol level. He said the case will be presented to the District Attorney's Office where the actress could face more charges, including felonies. Her tentative arraignment date is Aug. 24.

Lohan will have to appear in court to answer the citation, first reported on the Web site of X17 Inc., a celebrity photo agency.

The crash was Lohan's third accident in about two years. In October 2005 Lohan and a passenger received minor injuries when her convertible hit a van in West Hollywood. Authorities said the van driver, who also received minor injuries, was at fault.

Months earlier, Lohan collided with a minivan when she made a U-turn as the van, carrying paparazzi, followed her from a Los Angeles restaurant. A photographer was arrested for investigation of assault with a deadly weapon but prosecutors declined to charge him.

That crash was credited with prompting Gov. Arnold Schwarzenegger to sign a law that set steep financial penalties for paparazzi who commit assaults while trying to obtain celebrity photos.

Lohan's publicist Leslie Sloane Zelnik did not immediately return an e-mail requesting comment.

Lohan said in January that she had checked into a rehabilitation center for substance abuse treatment. Her publicist confirmed in December that the actress was attending Alcoholics Anonymous meetings.

Lohan told Allure magazine during an interview for its May issue that she decided to enter the secluded Wonderland Center at the suggestion of her therapist.

"It's so weird that I went to rehab. I always said I would die before I went to rehab," Lohan told the publication.

Lohan's latest movie, "Georgia Rule," is in theaters now. The actress' other screen credits include "Mean Girls," "Bobby," "A Prairie Home Companion" and "Freaky Friday."

Notes:

Lindsay Lohan arrested on suspicion of drunken driving; police find...

<http://www.iht.com/bin/print.php?id=5879059>

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## Lindsay Lohan Booked on Suspicion of DUI

**Actress Lindsay Lohan Arrested on Suspicion of DUI After Her Mercedes Hits Beverly Hills Curb**

By CHRISTOPHER WEBER

*The Associated Press*

**BEVERLY HILLS, Calif.**

Lindsay Lohan was arrested on suspicion of driving under the influence Saturday after her convertible struck a curb, and investigators found what they believe is cocaine at the scene, police said.

Lohan, 20, and two other people were in her 2005 Mercedes SL-65 when it crashed on Sunset Boulevard around 5:30 a.m., Sgt. Mike Foxen said. It appeared the actress was speeding, Lt. Mitch McCann said at an afternoon news conference.

Officers at the scene found a "usable amount" of a drug tentatively identified as cocaine, McCann said. He declined to say where the drug was found other than to say Lohan was not carrying it.

Lohan, who spent time at a rehabilitation center earlier this year, was driven in another car to a hospital for treatment of minor injuries, McCann said. The two other people in her car were not hurt.

Officers received a 911 call about the accident and arrested Lohan at the hospital for investigation of misdemeanor driving under the influence of alcohol or drugs, McCann said.

She was released from custody because she was admitted to the hospital, police said.

McCann declined to comment on Lohan's blood-alcohol level. He said the case will be presented to the District Attorney's Office where the actress could face more charges, including felonies. Her tentative arraignment date is Aug. 24.

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Lindsay Lohan Booked on Suspicion of DUI

<http://www.abcnews.go.com/print?id=3218672>

Lohan told Allure magazine during an interview for its May issue that she decided to enter the secluded Wonderland Center at the suggestion of her therapist.

"It's so weird that I went to rehab. I always said I would die before I went to rehab," Lohan told the publication

Lohan's latest movie, "Georgia Rule," is in theaters now. The actress' other screen credits include "Mean Girls," "Bobby," "A Prairie Home Companion" and "Freaky Friday."

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## Lohan Checks Into Rehab After Car Crash

**Lindsay Lohan Checks Into Rehab Center After Weekend Car Crash and DUI Arrest**

By SANDY COHEN

*The Associated Press*

### LOS ANGELES

Lindsay Lohan has checked into rehab. Again. The move followed a weekend during which the wild-child actress, who is a month shy of her 21st birthday, crashed her Mercedes, was arrested for suspicion of driving under the influence and was photographed slumped in the passenger seat of a friend's car.

Lohan "admitted herself to an intensive medical rehabilitation facility" on Monday, according to a statement released by her publicist, Leslie Sloane Zelnick. The statement added, "Because this is a medical matter, it is our hope that the press will appreciate the seriousness of the situation and respect the privacy of Lindsay as well as the other patients receiving treatment at the facility."

This is Lohan's second rehab stint this year. She said in January that she had checked into a rehabilitation center for substance abuse treatment.

"It's so weird that I went to rehab," Lohan said in Allure magazine's May issue. "I always said I would die before I went to rehab."

Lohan was arrested Saturday morning on suspicion of driving under the influence after her car hopped a curb and hit a shrub on Sunset Boulevard.

Witnesses called police, who arrived to find both Lohan and the vehicle missing from the accident site, said Beverly Hills Police Lt. Mitch McCann.

"We tracked down the vehicle to a nearby apartment complex and tracked down Ms. Lohan to a Century City hospital," he said Tuesday.

Officers investigating the crash also found a substance tentatively identified as cocaine.

The case remains under investigation, McCann said. Lohan could face additional charges for leaving the scene, he said, adding "we would take into consideration that she was injured and transported to a hospital."

Her preliminary court date is scheduled for Aug. 24. She will be represented by attorneys Blair Berk and Jason Sloane. Neither returned calls for comment Tuesday.

Lohan was back out on the town before the Memorial Day weekend was over. Photographers captured her slumped in the passenger seat of a friend's car early Monday morning. The photos, posted online, show a sweatshirt-clad Lohan with her mouth open and her eyes shut, apparently asleep.

Lohan Checks Into Rehab After Car Crash

<http://abcnews.go.com/print?id=3223860>

"The world has been very hard on her," said Michael Heller, an attorney and Lohan family friend. "She has a lot of personal issues and family issues. There's an incredible amount of pressure on this 20-year-old."

He also noted on Tuesday that Lohan has "gone from one movie to the next," spending long stretches of time away from her family.

"She's living in a hotel," he said. "It's a very lonely existence."

Lohan's mother, Dina Lohan, told Us Weekly magazine earlier this month that when her daughter isn't working, "she's so bored."

"I've told her, 'Please slow down. Stop!' She's growing up and learning to do that. She really loves the business," the mother said.

Lohan was originally set to begin work this week on "Poor Things," a comedy starring Shirley MacLaine, Olympia Dukakis, Rosario Dawson and Channing Tatum, the trade paper Variety reported Monday. The company behind the project, Still Rolling Productions, did not return calls or e-mails from The Associated Press Tuesday.

Lohan did her first movie at age 11: Disney's remake of "The Parent Trap." Her breakout role came in 2004's "Mean Girls." She released her debut album that same year.

Her other screen credits include "Freaky Friday," "Bobby" and "A Prairie Home Companion."

Her most recent movie, "Georgia Rule," is in theaters now. During its production last summer, one of the film's producers chastised Lohan for her "various late arrivals and absences from the set."

"We are well aware that your ongoing all night heavy partying is the real reason for your so-called exhaustion," James G. Robinson wrote in a letter made public in July 2006.

Lohan will turn 21 on July 2

"This is a time when she will reflect backwards and think forward," Heller said. "Hopefully she will plan a future that will be fruitful artistically, professionally (and) take a place in society that will be appropriate for someone of her standing."

Associated Press Writer Solvej Schou contributed to this report.

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Meet Lohan's Hard-Partying Gal Pal

<http://www.abcnews.go.com/print?id=3230618>

## Lindsey Lohan's Hard-Partying Gal Pal

**Lohan Passed Out in the Passenger Seat of Her Car, So Just Who Is Samantha Ronson?**

By BLAIR SODEN

May 31, 2007 —

Their names are synonymous with wild parties and Hollywood night life: Britney, Lindsay, Paris. And, until Britney went into rehab, they were often photographed as a threesome.

But when Lindsay Lohan, 20, had a wild Memorial Day weekend crashing her Mercedes and getting arrested on suspicion of DUI, photos splashed across tabloids from coast to coast of the unravelling actress didn't feature Hilton or Spears. Instead, some showed her passed out in the front seat of a car belonging to a new gal pal: Samantha Ronson.

Now, inquiring minds want to know, just where does Ronson fit in the Lohan loop?

### Who Is Samantha Ronson?

Ronson, 29, is a DJ who recently broke out onto the VIP club scene. She's already spun the decks at some of the hippest clubs across America and performed at parties for Maxim and PlayStation, at the Super Bowl, with Lohan on the American Music Awards, at Sundance and the VMAs in Miami.

So why don't most Americans recognize Ronson's name?

Jonathan Jaxson, a former Hollywood publicist and celebrity blogger (<http://jonathanjaxson.blogspot.com/>), says Ronson's been around for awhile, but has flown under the national radar until recently.

"She's been an indie-house DJ girl forever. She comes really from the woodwork and has risen in fame overnight," said Jaxson.

But what Jaxson calls "forever" really wasn't such a long road for Ronson -- there's already a famous DJ in the industry named Ronson, her older brother Mark. Maya Henderson, a freelance music and club critic in Chicago, says following in her brother's footsteps helped put Ronson on the map.

"Mark Ronson is a very well-known and respected hip-hop producer, which is probably how she got into the scene," Henderson said.

Despite Ronson's efforts to make a name for herself as a DJ, her association with Lohan and company has really put her on the map. So how did a relatively unknown DJ meet up with Hollywood's latest "it" crowd?

It's simple: Like Hilton, Ronson's an heiress.

Meet Lohan's Hard-Partying Gal Pal

<http://www.abcnews.go.com/print?id=3230618>

### **Confessions of an Heiress**

Ronson, hardly a struggling artist with a rags-to-riches story, is the daughter of Anne Dexter-Jones, a renowned New York socialite. Until recently Dexter-Jones was married to Ronson's stepfather, Mick Jones of the '80s rock band Foreigner. The couple divorced in early 2007.

David Patrick Columbia, of the New York Social Diary (<http://www.newyorksocialdiary.com/>), describes Ronson's family background as a little bit social, a little bit rock 'n' roll.

"They really crossed into two different areas, the rock music and the social area," Columbia told ABC News. "That whole world now is so homogenized that it's all kind of one Celebrityville."

Like Hilton, Ronson grew up on the New York social scene, but unlike Hilton, she didn't break into Hollywood or the gossip magazines until recently. She's been a familiar face on the New York Post's Page Six for years.

"She's a big party girl and she's been a big party girl and a big part of that party scene for a long time," said Columbia.

### **Livin' La Vida Lohan**

While Ronson's East Coast socialite status outfitted her with the necessary pedigree for fame and fortune, it's her recently publicized relationship with Lohan that's spreading her name past New York's South Hampton society.

"It's Hollywood. If you want to be famous, get Lindsay in the picture with you and you're going to be famous," said Jaxson. "People are going to wonder who the hell is this Samantha Ronson?"

Jaxson says it doesn't take much to get noticed.

"Any association with Lindsay Lohan, regardless if you even have lunch with her, brings you out into the spotlight," Jaxson said.

But Ronson's done more than just lunch. One of the DJ's earliest known associations with Lohan may be their work on the same film in 2004. Ronson's single "Built This Way" appeared in Lohan's breakout hit movie "Mean Girls."

But Jaxson says the two go even further back than that. "Sam's a good friend of Lindsay's. They've been friends for a long time," he said.

Jaxson says the two are actually romantically involved. "I hung out with them in March in New York and revealed on my blog that Sam and Lindsay were dating," said Jaxson.

Lohan and Ronson have yet to address that rumor publicly. And Lohan was recently photographed cavorting in the Caribbean with model Callum Best.

### **Lohan Back in Rehab -- Is Ronson Responsible?**

Is that close friendship, or even relationship, affecting Lohan negatively?

Ronson was by Lohan's side during most of the wild holiday weekend. It is rumored that it was Ronson leaving Lohan's apartment that prompted the star to get in her car and chase after the DJ, only to crash on the way back to the apartment. Lohan was arrested after the incident early Saturday morning.

Meet Lohan's Hard-Partying Gal Pal

<http://www.abcnews.go.com/print?id=3230618>

Two days later, photos of Lohan passed out in the front seat of Ronson's car are making national and international news. Lohan has returned to rehab at Promises in Los Angeles.

"Now you have these very young actresses like Lindsay Lohan who are spending themselves on their night life and they always attract a group of people who are a part of that world and Samantha Ronson is a major part of that world. She's a downtown DJ," said Columbia.

But Jaxson says Ronson isn't acting like a real friend.

"All these people say they want to help Lindsay, but nobody's telling her to stop doing the drugs. & Everybody encourages her," said Jaxson.

#### **DJ Sam -- Can Her Career Stand Alone?**

With Lohan back in rehab, will Ronson's budding DJ career be able to survive without her famous promoter?

Henderson has her doubts. She says it's Ronson's celebrity associations that bring the crowds, not her musical talents. After a recent performance in Chicago, Henderson said that Ronson was unimpressive and that she had the right tools to be a successful DJ but lacked talent.

"It's easier to be a DJ now because of MP3 files. It looks like you're spinning, but you're really just playing music off the computer," said Henderson. "As far as turntable skills, I didn't see any of that from her."

Without a successful career to carry her name, will Ronson continue to be a name by association at least?

Jaxson says no. He thinks Ronson's celebrity will fade just as quickly as her music career. "She's only been really out there a couple of months. She'll die out like all the others," said Jaxson.

Only time and the tabloids can tell.

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**Exhibit B**

welcome to

# PEREZHILTON.com

Celebrity Juice, Not from Concentrate



**WELCOME**

Welcome to PerezHilton.com - Hollywood's Most Hated Web Site!

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**Lindsay's Lover And Her Rival?????**

Filed under: Lindsay Lohan



Drugs, Backstabbing, Gay sex. We LOVE it! Now that **Lindsay Lohan** is ensconced within the safe confines of rehab, the dangerous influences in her life are being revealed. And we don't mean the drugs. It's her enablers friends! Lohan's group of paid pals and hangers-on have been toxic to the hard-partying star, most notably rumored lesbian lover and DJ **Samantha Ronson**. Lindsay and Samantha got into a huge fight the night of her DUI arrest, with Lohan - according to eyewitnesses - screaming at Ronson in the middle of the street, "You fucking lesbian bitch!" According to new reports, Ronson has been selling out Lohan to the paparazzi. Samantha's allegedly entered into an agreement with a photo agency to tip them off to her whereabouts with Lindsay, even creating photo-ops for them. Plus, the cocaine that was found in Lohan's car after her crash may have been **RONSON'S!**

While her DJ pal Samantha Ronson, 29, looks like she's there to help her pal through thick and thin, she's really making a tidy profit on the side, shilling Lohan, 26, out to photographers eager to get her photo looking passed out and wasted. While an "out of it" Lohan thought she was just going home after a night out at Teddi's in Hollywood on May 27, Ronson made a side trip to a gas station. A source tells *Celebrity Babylon*, "The car was only down a quarter tank, and yet Samantha stopped for gas. She has a side deal with a photo agency and they paid her to make the pit stop!" If that wasn't shocking enough, sources say that it was Ronson who was holding the cocaine later found in Lindsay's car. "There were three of them crammed into the Mercedes sports car and Samantha was the one that had the cocaine with her. Lindsay later questioned her about leaving it in the car for the cops to find and Samantha blew her off." Ronson, who makes anywhere from \$2,000 to \$3,000 a night deejaying at clubs and private parties, has accumulated a substantial side income taking her pal in front of paparazzi cameras for money.

With friends like Samantha Ronson, Lindsay doesn't need any enemies. Though she's got plenty of those too!

Posted June 1, 2007 at 4:02 pm

welcome to

# PEREZHILTON.COM

Celebrity Juice, Not from Concentrate



## WELCOME

Welcome to Perez Hilton.com - Hollywood's Most Talked About Site!

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## Blame Samantha!

Filed under: Lindsay Lohan



Shock stories surface claiming the actress' supposed real - and rumoured lover - DJ Samantha Ronson betrayed her.

# Was Lindsay Set Up BY HER GIRLFRIEND?



Was Lindsay Lohan betrayed by her lezbot DJ pal Samantha Ronson? Australia's *NW* magazine seems to think so. And we wouldn't disagree!

Posted: June 13, 2007 at 7:23 pm

**Exhibit C**

1 BINGHAM MCCUTCHEN LLP  
 2 Bruce A. Friedman (SBN 065852)  
 3 1620 26th Street  
 4 Fourth Floor, North Tower  
 5 Santa Monica, CA 90404-4060  
 6 (310) 907-1000

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 OF ORIGINAL FILED  
 Los Angeles Superior Court

111 12 2007

John A. Clarke, Executive Officer/Clerk

By \_\_\_\_\_, Deputy

5 DAVIS & GILBERT LLP  
 6 Martin Garbus  
 7 James R. Levine  
 8 1740 Broadway  
 9 New York, NY 10019  
 10 (212) 468-4800

11 Attorneys for Plaintiff  
 12 SAMANTHA RONSON

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

B C 374174

15 SAMANTHA RONSON,

Case No.:

16 Plaintiff,

COMPLAINT FOR DAMAGES  
 (Libel)

17 vs.

JURY TRIAL DEMANDED

18 SUNSET PHOTO AND NEWS, LLC, JILL  
 19 ISHKANIAN, MARIO LAVANDEIRA  
 20 doing business as PEREZ HILTON,  
 and DOES 1-10, inclusive,

Defendants.

22 Plaintiff SAMANTHA RONSON ("Ronson"), by her attorneys, Bingham McCutchen LLP  
 23 and Davis & Gilbert LLP, for her Complaint against Defendants SUNSET PHOTO AND NEWS,  
 24 LLC; JILL ISHKANIAN; MARIO LAVANDEIRA doing business as PEREZ HILTON; and  
 25 DOES 1 through 10, states as follows:  
 26

1 Plaintiff Ronson is an individual who resides and does business in Los Angeles  
 2 County, California.  
 3

1       2. Ronson is a professional disc jockey ("DJ") who is regularly hired to perform at  
 2 exclusive parties and events. Ronson has previously performed at events such as pop star Jessica  
 3 Simpson's birthday party; corporate events for Blender, Maxim, PlayStation at the Superbowl and  
 4 ElleGirl; and entertainment awards shows including the Video Music Awards in Miami,  
 5 Sundance, and the Independent Film Channel Awards.

6       3. Defendant Sunset Photo and News, LLC ("Sunset Photo") is, upon information and  
 7 belief, a limited liability company organized and existing under the laws of the State of California,  
 8 with its principal place of business located at 8491 Sunset Boulevard, Suite 117, West Hollywood,  
 9 in the County of Los Angeles, California. Upon information and belief, Sunset Photo is a  
 10 "paparazzi agency" that specializes in collecting and distributing photographs and gossip about  
 11 famous entertainers and other celebrities.

12      4. Upon information and belief, Sunset Photo owns and controls the online magazine,  
 13 CelebrityBabylon.com ("Celebrity Babylon"). Celebrity Babylon is an online magazine, publicly  
 14 available on the Internet, that publishes gossip about famous entertainers and other celebrities.

15      5. Defendant Jill Ishkanian ("Ishkanian") is an individual who, upon information and  
 16 belief, does business in the County of Los Angeles, California, at 8491 Sunset Boulevard, Suite  
 17 117, West Hollywood, California, as a principal of Sunset Photo and as Editor-in-Chief of  
 18 Celebrity Babylon.

19      6. Defendant Mario Lavandeira ("Lavandeira"), doing business as Perez Hilton, is an  
 20 individual who, upon information and belief, maintains a place of business at 11601 Wilshire  
 21 Boulevard, Suite 2040, in the County and City of Los Angeles, California, and resides in the  
 22 County of Los Angeles, California.

23      7. Upon information and belief, Defendant Lavandeira, doing business as Perez  
 24 Hilton, owns and controls "PerezHilton.com," a website that publishes gossip about famous  
 25 entertainers and other celebrities

26      8. The true names of defendants DOES 1 through 10, inclusive, are unknown to  
 27 Plaintiff, who therefore sues such defendants by fictitious names. Plaintiff is informed and  
 28 believes, and based on that information and belief alleges, that each of the defendants designated

1 as a DOE is legally responsible for the events and happenings referred to in this complaint, and  
 2 unlawfully caused the injuries and damages to Plaintiff alleged in this complaint

3       9.     Jurisdiction and venue are proper in this Court in that Plaintiff resides in and has  
 4 suffered injury in California as a result of Defendants' tortious act of publishing defamatory  
 5 statements about Plaintiff on the Internet, which was published to millions of people in the United  
 6 States including persons in the State of California, and because Defendants are headquartered  
 7 and/or reside in the County of Los Angeles, California

8       10.   On or about May 26, 2007, news outlets and websites began reporting that, early in  
 9 the morning on May 26, 2007, celebrity actress Lindsay Lohan ("Lohan") was involved in a car  
 10 accident on Sunset Boulevard in Beverly Hills, California; that Lohan was under suspicion for  
 11 driving under the influence of alcohol; and that the police who were called to the scene found  
 12 cocaine in Lohan's car. Ronson was in the car with Lohan at the time of the incident.

13      11.   The incident involving Lohan's car accident received widespread media attention.

14      12.   Upon information and belief, between March 27 and June 1, 2007, the online  
 15 magazine Celebrity Babylon published an article accusing Ronson of planting drugs in Lohan's  
 16 car and "setting up" Lohan for press photographers in exchange for money.

17      13.   Upon information and belief, the article in Celebrity Babylon stated, *inter alia*:

18  
 19           Celebrity Babylon has learned that while her DJ pal Samantha Ronson, 29, looks  
 20 like she's there to help her pal through thick and thin, she's really making a tidy  
 21 profit on the side, shilling Lohan, 20, out to photographers eager to get her photo  
 22 looking passed out and wasted. While an "out of it" Lohan thought she was just  
 23 going home after a night out at Teddy's in Hollywood on May 27, Ronson made a  
 24 side trip to a gas station. A source tells Celebrity Babylon, "The car was only down  
 25 a quarter tank, and yet Samantha stopped for gas. She has a side deal with a photo  
 26 agency and they paid her to make the pit stop!" If that wasn't shocking enough,  
 27 sources say that it was Ronson who was holding the cocaine later found in  
 28 Lindsay's car. "There were three of them crammed into the Mercedes sports car  
 and Samantha was the one that had the cocaine with her. Lindsay later questioned  
 her about leaving it in the car for the cops to find and Samantha blew her off."  
 Ronson, who makes anywhere from \$2,000 to \$3,000 a night deejaying at clubs  
 and private parties, has accumulated a substantial side income taking her pal in  
 front of paparazzi cameras for money.

1       14. The statements in the article concerning Ronson, reproduced above, are false and  
 2 libelous, and purport to state facts about Ronson which are false.

3       15. The article explicitly and unambiguously refers to Ronson.

4       16. The article refers to Ronson by name throughout, was made of and concerning  
 5 Ronson, and was so understood by those who read the article.

6       17. The statements about Ronson were falsely, maliciously, and intentionally published  
 7 by the Defendants and were known by Defendants to be false at the time they were made.  
 8 Defendants published these statements with actual malice and with the intent to cause harm to  
 9 Ronson.

10       18. Celebrity Babylon is publicly available on the Internet and has been viewed by and  
 11 communicated to an unknown number of third persons, including individuals in the State of  
 12 California and throughout the United States and the world.

13       19. The statements, including statements that Ronson had planted cocaine, have been  
 14 reproduced on numerous other celebrity gossip websites such as perezhilton.com, celebitchy.com,  
 15 socialitelife.com, hollyscoop.com, evilbeetgossip.com, popontheop.blogspot.com, and  
 16 gossip.commongate.com.

17       20. On or about June 1, 2007, Defendant Lavandeira published an article on  
 18 PerezHilton.com that reproduced the above statements by Celebrity Babylon regarding Ronson.  
 19 In addition, Lavandeira added additional statements about Ronson including statements that  
 20 Ronson has been “toxic” to Lohan; that “According to new reports, Ronson has been selling out  
 21 Lohan to the paparazzi”; that Ronson “allegedly entered into an agreement with a photo agency to  
 22 tip them off to her whereabouts with Lindsay, even creating photo-ops for them”; that “the cocaine  
 23 that was found in Lohan’s car after her crash may have been RONSON’s!” (emphasis in original);  
 24 and that “With friends like Samantha Ronson, Lindsay doesn’t need any enemies.”

25       21. On or about June 13, 2007, Defendant Lavandeira published an article on  
 26 PerezHilton.com – under the headline “Blame Samantha!” – that stated “Was Lindsay Lohan  
 27 betrayed by her lezbot DJ pal Samantha Ronson? Australia’s *NW* magazine seems to think so  
 28 And we wouldn’t disagree!” The article also contained a picture (apparently reproduced from a

1 magazine) of Defendant Lavandeira wearing a sweatshirt bearing the words in large capital letters,  
2 "BLAME SAMANTHA," with a caption stating "Celeb gossip guru Perez Hilton has described  
3 the DJ's influence on Lindsay's life as 'toxic' . . . and wears this top to prove his point."

4       22. Defendants knew that the statements about Ronson described above were false  
5 and/or recklessly disregarded the falsity of these statements when they published them.  
6 Defendants published these statements with actual malice and with the intent to cause harm to  
7 Ronson.

8       23. The statements about Ronson are libelous on their face. They accuse Ronson of  
9 criminal activity and expose her to hatred, contempt, ridicule and obloquy because they  
10 inaccurately portray Ronson as a disloyal, dishonest friend who "sold out" and "set up" her friend  
11 Lohan for personal financial gain.

12       24. The statements about Ronson adversely affect Ronson in her professional life as a  
13 DJ and her reputation and Ronson has been damaged by their publication.

14       25. Defendants are liable to Plaintiff as a result of these false and defamatory  
15 statements for actual, presumed and punitive damages in an amount to be determined at trial, but  
16 not less than \$20,000,000.

17  
18           **WHEREFORE**, Plaintiff Samantha Ronson requests this Court:

19       A. For judgment against Defendants in an amount to be determined at trial, but not  
20 less than \$20,000,000.

21       B. For interest, costs and disbursements of this action, including Plaintiff's reasonable  
22 attorneys' fees; and

23

24

25

26

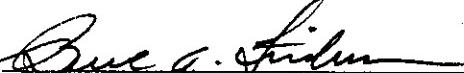
27

28

1 C For such other and further relief as may be just and proper.  
2  
3

Dated: June 26, 2007

4 BINGHAM MCCUTCHEN LLP  
5

6 By:   
7 Bruce A. Friedman  
1620 26th Street, Fourth Floor, North Tower  
Santa Monica, CA 90404-4060  
(310) 907-1000

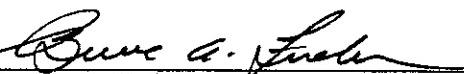
8 DAVIS & GILBERT LLP  
9 Martin Garbus  
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10 1740 Broadway  
New York, NY 10019  
(212) 468-4800

11 Attorneys for Plaintiff  
12 SAMANTHA RONSON  
13  
14

**JURY DEMAND**

15 Plaintiff demands a trial by jury on all claims.

16 BINGHAM MCCUTCHEN LLP  
17

18 By:   
19 Bruce A. Friedman  
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Santa Monica, CA 90404-4060  
(310) 907-1000

20 DAVIS & GILBERT LLP  
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New York, NY 10019  
(212) 468-4800

23 Attorneys for Plaintiff  
24 SAMANTHA RONSON  
25  
26  
27  
28

**Exhibit D**

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 mamir@dollamir.com

10 Attorneys for Defendant MARIO LAVANDEIRA

11  
 12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF LOS ANGELES

14 SAMANTHA RONSON, ) Case No BC374174  
 15 Plaintiff, ) [Assigned to the Honorable Elihu M. Berle,  
 16 vs ) Dept. 42]  
 17 SUNSEI PHOTIO AND NEWS, LLC; ) NOTICE OF MOTION AND MOTION TO  
 18 JILL ISHKANIAN; MARIO LAVANDEIRA ) STRIKE THE COMPLAINT PURSUANT  
 19 dba PEREZ HILTON; and DOES 1 through ) TO CODE OF CIVIL PROCEDURE  
 10, inclusive, ) SECTION 425.16 OF DEFENDANT  
 20 Defendants ) MARIO LAVANDEIRA; DECLARATIONS  
 21 ) OF MARIO LAVANDEIRA, MIKLOS  
 22 ) GASPAR, AND JACQUELINE C. BROWN  
 23 ) IN SUPPORT THEREOF  
 24 ) [Request for Judicial Notice filed  
 25 ) concurrently herewith]  
 26 ) Date: September 26, 2007  
 27 ) Time: 8:30 a.m.  
 28 ) Dept.: 42  
 ) Action filed: July 12, 2007

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2  
3 PLEASE TAKE NOTICE that on September 26, 2007 at 8:30 a.m., or as soon thereafter  
4 as the matter may be heard in Department 42 of the above-entitled Court, located at 111 North  
5 Hill Street, Los Angeles, California 90012, defendant Mario Lavandeira ("Lavandeira") will and  
6 hereby does move the Court for an order striking the complaint brought by plaintiff Samantha  
7 Ronson ("Ronson") and awarding Lavandeira his attorneys' fees and costs associated with this  
8 Motion. The Motion is made on the grounds that the complaint against Lavandeira is barred  
9 pursuant to Code of Civil Procedure section 425.16 because (1) it arises from Lavandeira's  
10 constitutional right of free speech; and (2) Ronson cannot establish by evidence admissible at  
11 trial a reasonable probability of prevailing on her claim

12

13 The Motion is based on this Notice, the attached Memorandum of Points and Authorities  
14 and Declarations of Mario Lavandeira, Miklos Gaspar, and Jacqueline C. Brown, the  
15 concurrently filed Request for Judicial Notice, the records, papers and pleadings on file in this  
16 action, and upon such argument as counsel may present at the time of the hearing on the Motion.

17

18 DATED: September 4, 2007

FREEDMAN & TAIELMAN, LLP  
DOLI AMIR & ELEY, LLP

19

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By:

  
BRYAN J. FREEDMAN  
Attorneys for Defendant MARIO LAVANDEIRA

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**TABLE OF CONTENTS**

		<u>Page</u>
1		
2		
3	I. INTRODUCTION . . . . .	1
4	II. FACTUAL SUMMARY . . . . .	2
5	A. Lindsay Lohan . . . . .	2
6	B. Samantha Ronson . . . . .	3
7	C. The Accident . . . . .	3
8	D. The Accident Receives "Widespread Media Attention" . . . . .	4
9	III. ARGUMENT . . . . .	4
10	A. Ronson's Complaint is Subject to the Anti-SLAPP Statute . . . . .	4
11	1. Ronson's Action is Based on Lavandeira's Free Speech Rights . . . . .	6
12	a. Lavandeira's Website is a Public Forum . . . . .	6
13	b. Lohan and the Accident Are Matters of Public Interest . . . . .	6
14	c. Ronson Herself is a Matter of Public Interest . . . . .	8
15	d. Drug and Alcohol Use, Driving Under the Influence, and Celebrity Misconduct Are Matters of Public Interest . . . . .	9
16	B. Ronson Cannot Show a Reasonable Probability of Prevailing on Her Defamation Claim . . . . .	10
17	1. Ronson Cannot Demonstrate that Lavandeira Made Provably False Statements . . . . .	11
18	2. Ronson Cannot Demonstrate, By Clear and Convincing Evidence, that Lavandeira's Statements Were Made With Actual Malice . . . . .	13
19	C. Lavandeira Is Entitled to His Attorneys' Fees In Connection with this Motion . . . . .	15
20	IV. CONCLUSION . . . . .	15
21	Declaration of Mario Lavandeira . . . . .	16
22	Declaration of Miklos Gaspar . . . . .	20
23	Declaration of Jacqueline C. Brown . . . . .	21

## TABLE OF AUTHORITIES

Page

CASES

4	<u>Ampex Corp. v. Cargle,</u> 128 Cal.App.4th 1569 (2005)	14
5	<u>Annette F. v. Sharon S.,</u> 119 Cal.App.4th 1146 (2004)	10
6	<u>Barrett v. Rosenthal,</u> 40 Cal.4th 33 (2006)	6
7	<u>Braun v. Chronicle Publishing Co.,</u> 52 Cal.App.4th 1036 (1997)	5
8	<u>Briggs v. Eden Council for Hope &amp; Opportunity,</u> 19 Cal.4th 1106 (1999)	5
9	<u>City of Cotati v. Cashman,</u> 29 Cal.4th 69 (2002)	5
10	<u>ComputerXpress, Inc. v. Jackson,</u> 93 Cal.App.4th 993 (2001)	6
11	<u>Commonwealth Energy Corp. v. Investor Data Exchange, Inc.,</u> 110 Cal.App.4th 26 (2003)	8, 9
12	<u>Copp v. Paxton,</u> 45 Cal.App.4th 829 (1996)	12
13	<u>Fashion 21 v. Coalition for Humane Immigrant Rights of Los Angeles,</u> 117 Cal.App.4th 1138 (2004)	10
14	<u>Ferlauto v. Hamsher,</u> 74 Cal.App.4th 1394 (1999)	11, 12
15	<u>Gallagher v. Connell,</u> 123 Cal.App.4th 1260 (2004)	7
16	<u>Gilbert v. Sykes,</u> 147 Cal.App.4th 13 (2007)	7
17	<u>Hall v. Time Warner, Inc.,</u> 153 Cal.App.4th 1337 (2007)	6, 7, 8
18	<u>Huntingdon Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty USA, Inc.,</u> 129 Cal.App.4th 1228 (2005)	6
19	<u>Ingels v. Westwood One Broadcasting Services, Inc.</u> 129 Cal.App.4th 1050 (2005)	8

1 TABLE OF AUTHORITIES, continued.  
2

	Page
3 <u>James v. San Jose Mercury News, Inc.,</u> 4     17 Cal.App 4th 1 (1993)	12
5 <u>Ketchum v. Moses,</u> 6     24 Cal 4th 1122 (2001)	15
7 <u>Kronemyer v. Internet Movie Data Base Inc.,</u> 8     150 Cal.App.4th 941 (2007)	6
9 <u>Lieberman v. KCOP Television, Inc.,</u> 10    110 Cal.App 4th 156 (2003)	9
11 <u>Maheu v. CBS, Inc.,</u> 12    201 Cal.App 3d 662 (1988)	9
13 <u>McGarry v. University of San Diego,</u> 14    2007 Cal.App LEXIS 1350 (July 17, 2007)	14
15 <u>Rosenaur v. Scherer,</u> 16    88 Cal.App 4th 260 (2001)	12
17 <u>Savage v. Pacific Gas &amp; Electric Co.,</u> 18    21 Cal.App 4th 434 (1993)	11
19 <u>Seelig v. Infinity Broadcasting Corp.,</u> 20    97 Cal.App 4th 798 (2002)	6, 7, 8, 11
21 <u>Sipple v. Foundation for National Progress,</u> 22    71 Cal App 4th 226 (1999)	9
23 <u>Soukup v. Law Offices of Herbert Hafif,</u> 24    39 Cal 4th 260 (2006)	5
25 <u>Taylor v. Superior Court,</u> 26    24 Cal 3d 890 (1979)	9
27 <u>Varian Medical Systems, Inc. v. Delfino,</u> 28    35 Cal.4th 180 (2005)	5
29 <u>Vogel v. Felice,</u> 30    127 Cal.App 4th 1006 (2005)	6
31 <u>Wilbanks v. Wolk,</u> 32    121 Cal.App 4th 883 (2004)	6
33 <u>Wilcox v. Superior Court,</u> 34    27 Cal App.4th 809 (1994)	5

TABLE OF AUTHORITIES, continued.

	<u>Page</u>
	<u>STATUTES</u>
4	Civ Code, § 45
5	Civ. Code, § 46
6	Code Civ. Proc., § 425.16
	1, 5, 6, <u>passim</u>
	<u>SECONDARY SOURCES</u>
9	5 Witkin, <u>Summary of California Law</u> (10th ed. 2005) Torts, § 529
	11

1     I. **INTRODUCTION**

2                 The defamation action brought by plaintiff Samantha Ronson (“Ronson”) is a classic  
 3 example of an improper “strategic lawsuit against public participation” (a “SLAPP suit”) that is  
 4 expressly barred by Code of Civil Procedure Section 425.16, the “anti-SLAPP statute” (hereafter  
 5 “Section 425.16”) As will be demonstrated, Ronson seeks to punish defendant Mario  
 6 Lavandeira (“Lavandeira”) for exercising his legitimate free speech rights in order to obtain an  
 7 economic advantage over him. To make matters worse, she does not seek to vindicate any  
 8 cognizable rights. Instead, she asserts a meritless claim for defamation that is plainly based on  
 9 Lavandeira’s constitutional right of free speech to express his opinions and subjective beliefs.  
 10 Additionally, Ronson has no evidence, let alone clear and convincing evidence, that Lavandeira  
 11 made defamatory statements about Ronson with actual malice. As a result, Ronson’s defamation  
 12 action against Lavandeira falls squarely within the broad ambit of the anti-SLAPP statute and  
 13 should be dismissed.

14                 This action arises from the media storm focused on the young actress, Lindsay Lohan  
 15 (“Lohan”). Over the last couple of years, Lohan has provided endless fuel for tabloid fodder.  
 16 Her repeated stints in rehabilitation, her misconduct on film sets, her love life, and her excessive  
 17 use of drugs and alcohol has mesmerized the media and public. On May 26, 2007, Lohan made  
 18 headlines again when she crashed her Mercedes Benz into a curb on Sunset Boulevard during the  
 19 early morning hours while driving under the influence of alcohol (the “Accident”). When the  
 20 police investigated the Accident, they also found cocaine in Lohan’s car. Ronson, who is also a  
 21 celebrity, was with Lohan when the Accident occurred. By Ronson’s own admission, “the  
 22 incident involving Lohan’s car crash received wide media attention” and that on the very  
 23 morning of the crash, “news outlets and websites began reporting” the story.

24                 Lavandeira owns and operates the celebrity gossip blog website, PerezHilton.com (the  
 25 “Website”). Like numerous other media outlets and websites, Lavandeira posted on the Website  
 26 his opinions and commentary about the Accident, the cocaine found by the police, and the  
 27 relationship between Ronson and Lohan. Soon thereafter, Ronson filed this defamation action  
 28 against Lavandeira, and others, seeking damages in excess of \$20,000,000.

1       As demonstrated below, Ronson's complaint against Lavandeira should be stricken and  
 2 dismissed as an improper SLAPP suit and Lavandeira should be awarded his attorneys' fees and  
 3 costs relating to this Motion for the following reasons:

- 4       1.      Ronson's claim arises from Lavandeira's exercise of his constitutionally protected  
                  free speech rights; and
- 5       2.      Ronson cannot demonstrate, by evidence admissible at trial, a reasonable  
                  probability of prevailing on her defamation claim because:
  - 6           a.     Ronson cannot demonstrate that Lavandeira's subjective expressions of  
                  opinion are provably false; and
  - 7           b.     Ronson cannot demonstrate, by clear and convincing evidence, that  
                  Lavandeira acted with actual malice.

12 **II. FACTUAL SUMMARY**

13 **A. Lindsay Lohan**

14       Lindsay Lohan ("Lohan") is well-known film actress. Although she has been acting and  
 15 modeling since she was three years old, she gained widespread media attention after appearing in  
 16 her first feature film, "The Parent Trap," at the age of 12. Since then, she has appeared in  
 17 thirteen feature films. RJD, Ex. A. She has also appeared on numerous television programs as  
 18 an actor, a guest, or subject. Id., Ex. A

19       Over the last few years, Lohan has received nearly continuous media attention for her  
 20 exploits on and off the screen. Declaration of Jacqueline C Brown ("Brown Decl."), ¶¶ 2-5 &  
 21 Exs. D-G. She has been in the media for, among other things, her eating disorder, excessive  
 22 partying and use of alcohol and drugs, repeated stints in rehabilitation, love life, family troubles,  
 23 run-ins with paparazzi, unprofessional conduct on film sets, repeated car accidents, and repeated  
 24 hospital stays. Id., Exs. D-G. Indeed, it is a rare day that Lohan does not appear in the media.

25       A search of her name on Google results in nearly 7 million hits. Brown Decl., ¶ 4 & Ex.  
 26 F. There are also at least fifteen websites (if not more) dedicated solely to Lohan such as  
 27 lindsaylohanfan.org, lindsayblog.com, lohangroupie.com, lindsaylohanworld.info,  
 28 lohanonline.com, lindsay-news.com, lindsay-lohan.net, lindsaylohanwatch.com,

1 lohanx.blogspot.com, lohanpictures.com, lindsaypics.com, lindsaylohan.com,  
 2 lindsaylohangsbtt.com, and lindsay-lohan-updates.blogspot.com. *Id.*, ¶ 5 & Ex. G.

3       **B.     Samantha Ronson**

4       Ronson is a celebrity DJ who regularly performs at exclusive and high profile events such  
 5 as, among others, “Jessica Simpson’s birthday party; corporate events for Blender, Maxim,  
 6 PlayStation at the Superbowl and ElleGirl; and the entertainment awards shows including the  
 7 Video Music Awards in Miami, Sundance, and the Independent Film Channel Awards.”  
 8 Complaint, ¶ 2.<sup>1</sup> She is also an accomplished musician. She has a record contract with the hip  
 9 hop record label, Roc-A-Fella Records RJD, Ex. B. She has written and performed various  
 10 singles that have been featured on film sound tracks such as “Built This Way” on the 2004  
 11 soundtrack for the film “Mean Girls,” starring Lohan (RJD, Ex. B) and “Pull My Hair Out” that  
 12 was featured on the 2004 soundtrack for the film, “The Woodsman,” starring Kevin Bacon. She  
 13 also performed the single “Wanted” for the 2006 soundtrack for the film “Half Nelson,” starring  
 14 Ryan Gosling. *Id.*, Exs. C & D.

15       She appeared, as herself, in national television advertisement for The Gap RJD, Ex. E.  
 16 She has been interviewed by MTV Brown Decl., ¶ 9 & Ex. L. She has her own website  
 17 samantharonson.com RJD, Ex. B. She also has her own entry on Wikipedia.com, the free  
 18 Internet encyclopedia. *Id.*, Ex. F. A search of “samantha ronson” on Google results in 283,000  
 19 hits. Brown Decl., ¶ 8 & Ex. J. She is also the frequent subject of the media and paparazzi. *Id.*,  
 20 ¶¶ 6-8, Exs. H-L.

21       **C.     The Accident**

22       During the early morning of May 26, 2007, Lohan crashed her Mercedes Benz into a curb  
 23 on Sunset Boulevard (the “Accident”). Complaint, ¶ 10. Lohan was under suspicion for driving  
 24 under the influence of alcohol. *Id.* The police found cocaine in her car. *Id.* Ronson was with  
 25 Lohan when the Accident occurred. *Id.* Later, Lohan was arrested for driving under the  
 26 influence alcohol and possession of cocaine RJD, Ex. G.

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27  
 28       <sup>1</sup> According to Ronson’s website, she has also performed “with Lindsay Lohan at the  
          American Music Awards.” RJD, Ex. B.

1           **D.     The Accident Receives “Widespread Media Attention”**

2           As Ronson admits, the Accident “received widespread media attention.” Complaint, ¶  
 3       11 She also admits that the very morning of the Accident, “news outlets and websites began  
 4       reporting” about it *Id.*, ¶ 10. In fact, every major media outlet including CNN, the New York  
 5       Times, the Los Angeles Times, and ABC News, among others, reported about the Accident  
 6       RJN, Ex. H. Additionally between May 27, 2007 and June 1, 2007, numerous websites posted  
 7       articles stating that Ronson had arranged for the paparazzi to obtain photographs of Lohan,  
 8       intoxicated and passed out in Ronson’s car, and that the cocaine found by the police in Lohan’s  
 9       car after the Accident may have been Ronson’s Complaint, ¶¶ 13 & 19 (listing websites).  
 10           On June 1, 2007, Lavandeira posted an article on the website PerezHilton.com (the  
 11       “Website”) that reproduced the statements by the website celebritybabylon.com Complaint, ¶  
 12       20. Lavandeira also added the statements that (1) Ronson has been “toxic” to Lohan; (2)  
 13       “According to news reports, Ronson has been selling out Lohan to the paparazzi”; (3) Ronson  
 14       “allegedly entered into an agreement with a photo agency to tip them off to here whereabouts  
 15       with Lindsay, even creating photo-ops for them”; (4) “the cocaine that was found in Lohan’s car  
 16       after her crash may have been RONSON’s”; and (5) “With friends like Samantha Ronson,  
 17       Lindsay doesn’t need any enemies.” *Id.*, ¶ 21; see also Declaration of Mario Lavandeira  
 18       (“Lavandeira Decl.”), ¶ 17; Declaration of Miklos Gaspar (“Gaspar Decl.”), ¶ 6 & Ex. B.

19           On June 13, 2007, Lavandeira posted an article from the Australian magazine NW that  
 20       was reporting about the news that Ronson may have arranged photograph opportunities for  
 21       paparazzi while Lohan was passed out in Ronson’s car. The article from NW shows a picture of  
 22       Lavandeira wearing a sweatshirt bearing the words “Blame Samantha,” with the caption “Celeb  
 23       gossip guru Perez Hilton has described the DJ’s influence on Lindsay’s life as ‘toxic’ ... and  
 24       wears this top to prove his point.” Below the NW article, Lavandeira added the statement “Was  
 25       Lindsay Lohan betrayed by her lezbot DJ pal Samantha Ronson? Australia’s *NW* magazine  
 26       seems to think so. And we wouldn’t disagree!” Complaint, ¶ 21; see also Lavandeira Decl., ¶  
 27       18; Gaspar Decl., ¶ 6 & Ex. C  
 28

1       **III. ARGUMENT**

2       **A. Ronson's Complaint is Subject to the Anti-SLAPP Statute**

3       A "SLAPP suit" is brought to chill the valid exercise of the constitutional rights of  
 4       freedom of speech and petition for the redress of grievances. Section 425.16(a); Braun v.  
 5       Chronicle Publishing Co., 52 Cal App 4th 1036, 1042 (1997). The primary objective of a  
 6       SLAPP suit is to obtain an economic advantage over the defendant, not to vindicate a legally  
 7       cognizable right of the plaintiff. Indeed, one of the hallmarks of a SLAPP suit is its lack of  
 8       merit. Wilcox v. Superior Court, 27 Cal App 4th 809, 816 (1994). Section 425.16 provides a  
 9       summary procedure by which defendants may dispose of such lawsuits at the pleading stage and  
 10      thus avoid the cost and delays of lengthy litigation. Soukup v. Law Offices of Herbert Hafif, 39  
 11      Cal.4th 260, 278 (2006). "[T]he point of the anti-SLAPP statute is that you have a right *not* to be  
 12      dragged through the courts because you exercised your constitutional rights." Varian Med.  
 13      Systems, Inc. v. Delfino, 35 Cal.4th 180, 193 (2005) (emphasis original; internal quotes omitted).

14       A motion to strike a SLAPP suit involves a two-step process. First, the court determines  
 15      whether the moving party has demonstrated that the challenged activity stems from protected  
 16      activity. If a prima facie showing has been made by the moving party, the court must then  
 17      consider whether the plaintiff demonstrated a probability of success on the challenged claim.  
 18      Section 425.16(b)(1); Fontani v. Wells Fargo Investments, 129 Cal.App.4th 719, 727 (2005).

19       A defendant meets its burden by demonstrating that the conduct underlying the plaintiff's  
 20      claim fits within one of the categories spelled out in Section 425.16(e). City of Cotati v.  
 21      Cashman, 29 Cal.4th 69, 78 (2002). Section 425.16(e) defines protected activity as:

22                  (1) any written or oral statement or writing made before a  
 23                  legislative, executive, or judicial proceeding, or any other official  
 24                  proceeding authorized by law; (2) any written or oral statement or  
 25                  writing made in connection with an issue under consideration or  
 26                  review by a legislative, executive, or judicial body, or any other  
 27                  official proceeding authorized by law; (3) any written or oral  
 28                  statement or writing made in a place open to the public or a public  
                 forum in connection with an issue of public interest; (4) or any  
                 other conduct in furtherance of the exercise of the constitutional  
                 right of petition or the constitutional right of free speech in  
                 connection with a public issue or an issue of public interest.

29      Section 425.16(e)(4). When determining whether a cause of action "arises from" protected

1 activity, Section 425.16 is to be “broadly construed.” Section 425.16(a); Briggs v. Eden Council  
 2 for Hope & Opportunity, 19 Cal.4th 1106, 1119 (1999).

3       **1. Ronson’s Action Is Based on Lavandeira’s Free Speech Rights**

4       Section 425.16(e)(3) defines acts in furtherance of free speech or petition as including  
 5 statements that are made (1) in a public forum and (2) in connection with an issue of public  
 6 interest. Ronson’s claim against Lavandeira falls directly within this category.

7       **a. Lavandeira’s Website Is a Public Forum**

8       The California Supreme Court and the Courts of Appeal repeatedly have held that a Web  
 9 site accessible to the public is a public forum for purposes of Section 425.16. Barrett v.  
 10 Rosenthal, 40 Cal.4th 33, 41, fn. 4 (2006); Kronemyer v. Internet Movie Data Base, Inc., 150  
 11 Cal App.4th 941 (2007); Huntingdon Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty  
 12 USA, Inc. 129 Cal.App.4th 1228, 1247 (2005); Vogel v. Felice, 127 Cal.App.4th 1006, 1015  
 13 (2005); Wilbanks v. Wolk, 121 Cal.App.4th 883, 895 (2004); ComputerXpress, Inc. v. Jackson,  
 14 93 Cal App.4th 993, 1007 (2001). As observed by the court in Huntingdon Life Sciences, Inc.,  
 15 129 Cal App.4th at p. 1247 (citation omitted), “Statements on [defendant’s] Web site are  
 16 accessible to anyone who chooses to visit the site, and thus they ‘hardly could be more public.’”

17       Ronson alleges that each of Lavandeira’s allegedly defamatory statements appeared on  
 18 the Website Complaint, ¶¶ 6-7, 20-21. Lavandeira’s website meets all the requirements of a  
 19 public forum. The website is accessible free of charge to any member of the public. Lavandeira  
 20 Decl., ¶ 4. Readers of the Website may review the opinions and commentary of Lavandeira as  
 21 well as other members of the public. Id. They may also post their own opinions. Id.

22       **b. Lohan and the Accident Are Matters of Public Interest**

23       A statement or other conduct is “in connection with an issue of public interest . . . if the  
 24 statement or conduct concerns a topic of widespread public interest and contributes in some  
 25 manner to a public discussion of the topic.” Hall v. Time Warner, Inc., 153 Cal App.4th 1337,  
 26 1347 (2007). An event that is of “significant interest to the public and the media” satisfies the  
 27 public interest requirement for purposes of Section 425.16(e)(3). Seelig v. Infinity Broadcasting  
 28 Corp., 97 Cal.App.4th 798, 807-808 (2002). Additionally, matters involving a celebrity’s

1 personal life constitute matters of public interest where the celebrity is the subject widespread  
 2 public interest. Hall, 153 Cal App 4th at 1347.

3 The public interest requirement of Section 425.16(e)(3) ***must be construed broadly*** so as  
 4 to encourage participation by all segments of our society in vigorous public debate of issues of  
 5 public interest. Gilbert v. Sykes, 147 Cal App 4th 13, 23 (2007). Additionally, in deciding  
 6 whether a matter is one of public interest, courts should “err on the side of free speech.”  
 7 Gallagher v. Connell, 123 Cal.App.4th 1260, 1275 (2004)

8 The decision in Hall v. Time Warner, Inc., 153 Cal.App.4th 1337 (2007), demonstrates  
 9 that Lohan and the Accident are topics of public interest. The facts of Hall involved claims  
 10 brought by the former housekeeper of Marlon Brando against the producers of the nationally  
 11 broadcast television show “Celebrity Justice.” After Brando’s death, when it was revealed that  
 12 he had named Hall as a beneficiary of his living trust, a reporter for “Celebrity Justice” visited  
 13 Hall in her room in a retirement home, interviewed her, and portions of the interview were  
 14 televised. Hall sued the producers for trespass, intrusion upon seclusion, public disclosure of  
 15 private facts, intentional infliction of emotional distress, and elder abuse. Id. at 1341-1342.

16 In reversing the trial court’s denial of the producers’ motion to strike, the court in Hall  
 17 held:

18 “The public’s fascination with Brando and widespread public  
 19 interest in his personal life made Brando’s decisions concerning  
 20 the distribution of his assets a public issue or an issue of public  
 21 interest. Although Hall was a private person and may not have  
 22 voluntarily sought publicity or to comment publicly on Brando’s  
 23 will, she nevertheless became involved in an issue of public  
 24 interest by virtue of being named in Brando’s will. Defendants’  
 television broadcast contributed to the public discussion of the  
 issue identifying Hall as a beneficiary and showing her on camera.  
 We conclude that the acts from which the complaint arises . . .  
 constituted conduct in furtherance of defendants’ right of free  
 speech ‘in connection with a public issue or an issue of public  
 interest.’”

25 Hall, 153 Cal.App.4th at 1347.

26 The decision in Seelig v. Infinity Broadcasting Corp., 97 Cal.App.4th 798 (2002) further  
 27 supports the conclusion that Lavandeira’s statements involved matters of public interest. The  
 28 facts of Seelig involved claims of slander brought by a contestant on the television program

“Who Wants to Marry a Multimillionaire” against radio talk show hosts and their employer arising from disparaging comments made about plaintiff during a radio broadcast. In reversing the trial court’s denial of defendants’ motion to strike, the Seelig court held:

"The offending comments arose in the context of an on-air discussion between the talk-radio cohosts and their on-air producer about a television show of significant interest to the public and the media . . . Before and after its network broadcast, *Who Wants to Marry a Multimillionaire* generated considerable debate within the media . . . By having chosen to participate as a contestant in the Show, plaintiff voluntarily subjected herself to inevitable public scrutiny and potential ridicule by the public and the media."

<sup>9</sup> Seelig, 97 Cal App.4th at 807; see also Ingels v. Westwood One Broadcasting Servs., Inc., 129 Cal.App.4th 1050, 1055, 1064 (2005) (live call-in radio talk show matter of public interest).

11        Here, Lohan is an accomplished and well-known film actress. It cannot be legitimately  
12 disputed that Lohan is the subject of widespread media attention and public fascination for her  
13 exploits on and off the screen, and especially regarding her destructive and excessive use of  
14 alcohol and drugs. As a result of the widespread public interest in Lohan, the Accident was also  
15 a matter of public interest. In fact, by Ronson's own admission, the Accident involving Lohan  
16 generated "widespread media attention" and that within hours of the Accident, "news outlets and  
17 websites began reporting" the story Complaint, ¶¶ 10-11.

18 Ronson admits that she was with Lohan when the Accident occurred and that police  
19 found cocaine in Lohan's car. Complaint, ¶ 10. Thus, regardless of Ronson's own celebrity  
20 status, or whether she voluntarily sought publicity in connection with the Accident, she  
21 nevertheless became involved in an issue of public interest by virtue of being involved in the  
22 Accident. Additionally, by publicly associating herself with Lohan, Ronson also voluntarily  
23 subjected herself to the inevitable scrutiny and potential ridicule by the public and media.  
24 Lavandeira's articles about Accident and Ronson's relationship with Lohan contributed to the  
25 public discussion of these issues

c. Ronson Herself Is Matter of Public Interest

27 Where the subject of the statement or activity precipitating the claim was a person in the  
28 public eye, this *alone* satisfies the public interest/public issue requirement of Section 425.16.

1       Commonwealth Energy Corp. v. Investor Data Exchange, Inc., 110 Cal.App 4th 26, 33 (2003)  
 2       For example, in Sipple v. Foundation for Nat. Progress, 71 Cal.App.4th 226, 239 (1999), the  
 3       court found that the statements about “a nationally known figure” necessarily concerned a matter  
 4       of public interest. Additionally, the law is settled that individuals closely associated with public  
 5       figures are themselves public figures. Maheu v. CBS, Inc., 201 Cal.App.3d 662, 675 (1988).

6              Ronson has been closely and publicly associated with Lohan for quite sometime. Brown  
 7       Decl., ¶ 10 & Ex. M. By this association alone, Ronson is considered a public figure as a matter  
 8       of law. Moreover, the evidence also demonstrates that Ronson is a celebrity in her own right in  
 9       connection with the music and club scene.

10             By Ronson’s own admission, she is a celebrity DJ who regularly performs at exclusive,  
 11       high profile, and celebrity events. Complaint, ¶ 2. She has a record contract with a well-known  
 12       record label. RJDN, Ex. B. Her music has been featured on several film soundtracks. Id., Exs. B-  
 13       D. She has starred in a national ad campaign for The Gap. Id., Ex. E. She has her own website.  
 14       Id., Ex. B. She has her own entry on Wikipedia.com. Id., Ex. F. *Significantly, she is the*  
 15       *frequent subject of the media and numerous celebrity gossip, entertainment, and paparazzi*  
 16       *websites.* Brown Decl., ¶¶ 6-9 & Exs. H-L.

17             d.       Drug and Alcohol Use, Driving Under the Influence, and  
 18                    Celebrity Misconduct Are Matters of Public Interest

19             Where a statement or activity precipitating the claim involves conduct that could affect  
 20       large numbers of people beyond the direct participants, the claim is subject to Section 415.16.  
 21       Commonwealth Energy Corp., 110 Cal.App.4th at 33. There can be little doubt that the use and  
 22       possession of drugs and driving under the influence are matters that have potential impact on a  
 23       wide segment of society and receive widespread public attention. “Few problems affecting the  
 24       health and welfare of our population, particularly our young, cause greater concern than the  
 25       escalating use of controlled substances.” Lieberman v. KCOP Television, Inc., 110 Cal.App.4th  
 26       156, 165 (2003) (citation omitted) (for the purposes of Section 425.16, illegal dispensing of  
 27       controlled substances is an issue of “great public interest”); see also Taylor v. Superior Court, 24  
 28       Cal.3d 890, 899 (1979) (driving under the influence is an issue of great urgency and concern)

1       The Accident involved issues of under age drinking (Lohan was 20 years old when the  
 2 accident occurred), driving under the influence, and the use of illegal drugs As a result of the  
 3 Accident and the publicity surrounding it, the California Department of Alcoholic Beverage  
 4 Control launched an investigation into the practice of Hollywood nightclubs serving alcohol to  
 5 underage celebrities and patrons RJDN, Ex. I; Brown Decl., ¶ 11 & Ex. N.

6       There also can be little doubt that the impact of unseemly celebrity behavior on our  
 7 society is also a matter of great public interest and concern. Indeed, nearly every day brings a  
 8 new headline about some celebrity's run-in with the law, treatment for drug or alcohol abuse, or  
 9 sex scandal. As a result, there has been growing media attention about the affect this behavior is  
 10 having on our society, and more importantly, on our children. RJDN, Ex. J Commenting on a  
 11 matter of public concern is fundamental to the right of free speech Annette F. v. Sharon S., 119  
 12 Cal App 4th 1146, 1162 (2004).

13       B.     Ronson Cannot Show a Reasonable Probability of Prevailing on Her  
 14           Defamation Claim

15       Once the defendant has met its burden of establishing that the complaint falls within  
 16 the anti-SLAPP statute, the burden shifts to the plaintiff to establish a "reasonable probability"  
 17 that he will prevail at trial Section 425.16(b) To establish a "probability" of prevailing, the  
 18 plaintiff must show (1) a legally sufficient claim; and (2) that the claim is supported by  
 19 competent, admissible evidence sufficient to sustain a judgment in the plaintiff's favor. Fashion  
 20 21 v. Coalition for Humane Immigrant Rights of Los Angeles, 117 Cal App 4th 1138, 1147  
 21 (2004) Ronson cannot meet this burden.

22       Ronson's defamation claim is based on two categories of statements: (1) Lavandeira's  
 23 subjective statements of opinion about Ronson; and (2) Lavandeira's republishing of statements  
 24 made by others about Ronson. Complaint, ¶¶ 20-21. As demonstrated below, Ronson cannot  
 25 show a reasonable probability of prevailing on her claim because she cannot prove that  
 26 Lavandeira's subjective statements of opinion about her were provably false statements or that  
 27 Lavandeira acted with actual malice when he republished the statements of others

28

1           **1. Ronson Cannot Demonstrate that Lavandeira Made Provably False**  
 2           **Statements**

3           The tort of defamation involves (a) a publication that is (b) false, (c) defamatory, and (d)  
 4 unprivileged, and that (e) has a natural tendency to injure or that causes special damage Civ.  
 5 Code, §§ 45-46; 5 Witkin, Summary of Cal. Law (10th ed. 2005) Torts, § 529, p. 782 (citing Civ.  
 6 Code, §§ 45-46 and cases). To prevail on her defamation claim, Ronson has the burden of  
 7 presenting evidence of a statement of fact that is provably false. See Seelig, 97 Cal App.4th at  
 8 809. Statements that cannot be reasonably interpreted as stating “actual facts” about an  
 9 individual cannot form the basis of a defamation action. Id. Additionally, expressions of opinion  
 10 are not actionable. Savage v. Pacific Gas & Elec. Co., 21 Cal App.4th 434, 445 ( 1993). Thus,  
 11 “rhetorical hyperbole,” “vigorous epithets,” “lusty and imaginative expressions of contempt,” and  
 12 language used “in a loose, figurative sense” have all been accorded constitutional protection  
 13 Seelig, 97 Cal.App.4th at 809. Additionally, epithets and subjective disapproval of the “sticks  
 14 and stones will break my bones” variety, are not actionable Ferlauto v. Hamsher, 74  
 15 Cal.App.4th 1394, 1404 (1999).

16           The critical determination of whether an allegedly defamatory statement constitutes fact  
 17 or opinion is a question of law for the court Ferlauto, 74 Cal.App.4th at 1401. In making this  
 18 determination, California courts apply the totality of the circumstances test. Id.; see also Seelig,  
 19 97 Cal.App.4th at 809. Under this test, the court first examines the language of the statement.  
 20 Next, the context in which the statement was made must be considered. The “contextual analysis  
 21 demands that the courts look at the nature and full content of the communication and to the  
 22 knowledge and understanding of the audience to whom the publication was directed.” Seelig, 97  
 23 Cal App.4th at 809-810. Under this test, “editorial context is regarded by the courts as a  
 24 powerful element in construing as opinion what might otherwise be deemed fact.” Ferlauto, 74  
 25 Cal App.4th at 1401 (citation omitted).

26           Applying this test, the following statements have been found to be not to be actionable:  
 27           •       Statements by radio hosts that plaintiff was a “local loser,” “chicken butt,” and  
 28                   “big skank,” were “unquestionably” statements of the speaker’s subjective

- 1 judgment. Seelig, 97 Cal App.4th at 810.
- 2 • Statements that the plaintiff was a “creepazoid attorney” and “loser wannabe  
3 lawyer” were “classic rhetorical hyperbole which ‘cannot reasonably [be]  
4 interpreted as stating actual facts.” Ferlauto, 74 Cal App 4th at 1404.
- 5 • Metaphoric expressions such as “keep him honest,” “booby,” and “baying in the  
6 ocean breezes,” were subjective expressions of negative opinion with no  
7 disprovable factual content. Copp v. Paxton, 45 Cal App 4th 829, 838 (1996).
- 8 • Statements that an attorney used “sleazy tactics” and engaged in a “fishing  
9 expedition,” and the supposition that the judge had a “dim view of the defense  
10 tactics,” merely opinion only James v. San Jose Mercury News, Inc., 17  
11 Cal.App 4th 1, 7-8 (1993)
- 12 • Use of the words “liar” and “thief” by a political foe was constitutionally  
13 protected hyperbole. Rosenaur v. Scherer, 88 Cal.App 4th 260, 280 (2001).

14 The Language of Lavandeira’s Statements: Ronson alleges that the following statements  
15 by Lavandeira are defamatory: (1) “Ronson has been toxic to Lohan’s life,” (Complaint, ¶¶ 20-  
16 21); (2) “With friend’s like Samantha Ronson, Lindsay doesn’t need any enemies,” (Id., ¶ 20);  
17 (3) “And we wouldn’t disagree!” with an article in Australia’s magazine NW that asked “Was  
18 Lindsay Lohan betrayed by her Lezbot DJ pal Samantha Ronson?” (Id., ¶ 21); (4) “Blame  
19 Samantha,” and (5) a photograph of Lavandeira wearing a sweatshirt bearing the words “BLAME  
20 SAMATHA.” Id., ¶ 21.

21 The Context of Lavandeira’s Statements: The Website is a celebrity gossip blog.  
22 Lavandeira Decl., ¶ 3. It is billed as “celebrity gossip juice, not from concentrate” as well as  
23 “Hollywood’s Most Hated Website!” Id., ¶ 7. The style of the Website is intentionally irreverent  
24 to celebrities.<sup>2</sup> Id., ¶ 5. Almost all every article includes Lavandeira’s editorial commentary and  
25

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26       <sup>2</sup> Additionally, “caricature, imaginative expression, and rhetorical hyperbole . . . are often  
27 subject to the threat of a defamation action, but generally constitute a legitimate exercise of  
28 literary style.” Ferlauto, 74 Cal App 4th at 1403. As demonstrated, the comments made by  
Lavandeira about Ronson are typical of Lavendeira’s literary style

1 opinions about the spotlighted celebrity. Id. He also often uses hyperbole, slang, profanity, and  
 2 epithets in his postings. Id. Most of his blogs are intentionally written in a “tongue-in-cheek”  
 3 manner Id. Additionally, when showing pictures of celebrities, he also usually includes his own  
 4 satirical scribbles across the photograph expressing his opinion about the celebrity in the  
 5 photograph Id., ¶ 6 & Ex. A.

6 Viewing Lavandeira’s statements in this context, it is plain that his statements were  
 7 nothing more than expressions of his subjective opinion. For example, Lavandeira states that  
 8 Ronson has been “toxic” to Lohan. The term “toxic,” in this context, plainly refers to  
 9 Lavandeira’s view that Ronson is a bad influence on Lohan. See Lavandeira Decl., ¶ 17.  
 10 Whether Ronson has been, in fact, toxic to Lohan is too vague to be capable of being proven true  
 11 or false. See James, 17 Cal App 4th at 15 (terms “dim view” insusceptible of proof or disproof  
 12 because too vague). Moreover, such a determination is plainly subjective.

13 Lavandeira’s statements that “With friend’s like Samantha Ronson, Lindsay doesn’t need  
 14 any enemies,” “Blame Samantha,” and that Lavandeira did not disagree with a Australian  
 15 magazine’s opinion that Ronson had betrayed Lohan are unquestionably statements of subjective  
 16 expressions of disapproval, devoid of any factual content, reflecting Lavandeira’s “vague  
 17 expressions of low esteem” for Ronson. See Ferlauto, 74 Cal App 4th at 1404. The conclusion  
 18 that these statements are merely Lavandeira’s opinions is reinforced by the statement that  
 19 Lavendeira was wearing a sweatshirt bearing the words “Blame Samantha” to “prove his point”  
 20 that Ronson was been a “toxic” influence on Lohan. Lavandeira’s “point” is merely another way  
 21 of stating his “opinion.” No reader of the Website could have interpreted the statements to be  
 22 statements of actual fact. Indeed, Lavandeira’s statements are of the “sticks and stones will break  
 23 by bones” variety, and thus, are not actionable.

24       2.       Ronson Cannot Demonstrate, By Clear and Convincing Evidence,  
 25                   that Lavandeira’s Statements Were Made With Actual Malice

26       Ronson is a public figure in the music and club scene and by virtue of her public  
 27 association with Lohan. At a minimum, she is also a “limited public figure” in connection with  
 28 the Accident and Lohan. A person will be considered a “limited purpose” or “vortex” public

1 figure, if he voluntarily injects himself or is drawn into a particular public controversy and  
 2 thereby becomes a public figure for a limited range of issues. McGarry v. University of San  
 3 Diego, 2007 Cal.App LEXIS 1350, \*25 (July 17, 2007). Here, Ronson has been drawn into the  
 4 issues surrounding the Accident and Lohan's drug and alcohol use by virtue of being with  
 5 Lohan when the Accident occurred, her close association with Lohan, and cocaine being found in  
 6 Lohan's car

7 Like "all purpose" public figures, limited public figures must show by "clear and  
 8 convincing evidence" that the alleged defamatory statement was published with actual malice,  
 9 meaning with knowledge the republished statements were false or with reckless disregard of their  
 10 falsity Ampex Corp. v. Cargle, 128 Cal.App.4th 1569, 1578 (2005). The test is "*a subjective*  
 11 *test, under which the defendant's actual belief concerning the truthfulness of the publication*  
 12 *is the crucial issue.*" This test directs attention to the defendant's attitude toward the truth or  
 13 falsity of the material published, not the defendant's attitude toward the plaintiff McGarry, 2007  
 14 Cal.App LEXIS 1350 at \*24-26 (emphasis added) The reckless disregard test is not a negligence  
 15 test measured by whether a reasonably prudent person would have published, or would have  
 16 investigated before publishing, the defamatory statement. Instead, the evidence must "permit the  
 17 conclusion that the defendant actually had a 'high degree of awareness of . . . probable falsity.' As  
 18 a result, failure to investigate before publishing, even when a reasonably prudent person would  
 19 have done so, is not sufficient to establish reckless disregard." Id. at \*26 (citations omitted).  
 20 Thus, to support a finding of actual malice, the failure to investigate must fairly be characterized  
 21 as demonstrating the speaker purposefully avoided the truth or deliberately decided not to acquire  
 22 knowledge of facts that might confirm the probable falsity of charges. Id. at \*27-\*28

23 Ronson cannot demonstrate by clear and convincing evidence that Lavandeira acted with  
 24 actual malice. Since Lavandeira first met Ronson in January 2006, he has heard from numerous  
 25 sources that she had a drug problem. Id., ¶ 11. Almost immediately after the Accident,  
 26 numerous websites (other than Lavandeira's Website) began reporting that the cocaine found in  
 27 Lohan's car might have been Ronson's and that Ronson had a deal with photographers to help  
 28 them obtain compromising pictures of Lohan. Id., ¶ 16; see also Complaint, ¶ 19 (listing

1 websites) Thus, when Lavandeira republished the article from celebritybabylon.com on June 1,  
 2 2007 and from NW magazine on June 13, 2007, he genuinely believed the reports about Ronson  
 3 were true and had no reason to believe they were false Id., ¶ 19 Since the Accident, he has not  
 4 received any information indicating the cocaine found in Lohan's car was not Ronson's or that  
 5 Ronson *did not* have a deal with photographers Id.

6       **C.     Lavandeira Is Entitled to Attorneys' Fees In Connection with this Motion**

7       “Any defendant who brings a successful motion to strike is entitled to mandatory  
 8 attorneys fees.” Ketchum v. Moses, 24 Cal.4th 1122, 1131 (2001); see also Section 425.16(c)  
 9 (the “prevailing defendant” on a motion to strike “shall be entitled” to recover his attorneys’ fees  
 10 and costs). If the Court grants Lavandeira’s Motion, he will submit a noticed motion for his fees.

11     **IV.    CONCLUSION**

12       For all of the foregoing reasons, Lavandeira respectfully requests that the Court grant his  
 13 Motion in its entirety, strike the Complaint brought by Ronson, and award Lavendeira his  
 14 attorneys’ fees and costs associated with this Motion.

15

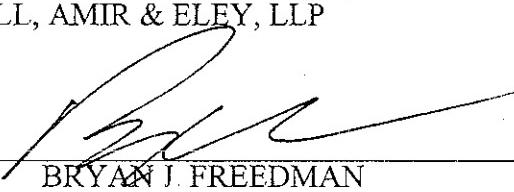
16 DATED: September 4, 2007

FREEDMAN & TAIELMAN, LLP  
 DOLL, AMIR & ELEY, LLP

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By:



BRYAN J. FREEDMAN  
 Attorneys for Defendant MARIO LAVANDEIRA

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ORIGINAL FILED  
LOS ANGELES

SEP 13 2007

SUPERIOR COURT  
By: VICTOR E. SINO-CRUZ  
DEPUTY

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

15 SAMANTHA RONSON,

Case No.: BC374174

16 Plaintiff,

HON. ELIHU M. BERLE  
DEPT. 42

17 vs.

18 SUNSET PHOTO AND NEWS, LLC, JILL  
ISHKANIAN, MARIO LAVANDEIRA  
19 doing business as PEREZ HILTON,  
and DOES 1-10, inclusive,

MEMORANDUM OF LAW IN  
OPPOSITION TO DEFENDANTS'  
MOTION TO STRIKE THE  
COMPLAINT

20 Defendants.

Action Filed: July 17, 2007

21 Date: September 26, 2007  
Time: 8:30 a.m.  
Dept.: 42

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## Table of Contents

STATEMENT OF FACTS	1
ARGUMENT	1
Good Cause Exists For This Court To Permit Specified Discovery Prior to The Court's Ruling on Defendants' Motions to Strike	1
CONCLUSION	3

## Table of Authorities

## STATE CASES

4	<i>Flatley v. Mauro</i> , 39 Cal. 4th 299 (2006)	1
5		
6	<i>LaFayette Morehouse, Inc., et al. v. Chronicle Publ'g Co., et al.</i> , 37 Cal. App. 4th 855 (1995)	1, 2
7		
8	<i>Mann v. Quality Old Time Service, Inc.</i> , 120 Cal. App. 4th 90 (2004)	1
9		
10	<i>Ruiz v. Harbor View Cnty. Assoc.</i> , 134 Cal. App. 4th 1456 (2005)	2
11		
12	<i>Sipple v. Found. For Nat'l Progress, et al.</i> , 71 Cal. App. 4th 226 (1999)	1

## **STATE STATUTES**

14 Cal. Civ. Code, § 425.16 (2007) 1

STATEMENT OF FACTS

A recitation of facts relevant to this matter is contained in Plaintiff's Complaint, Plaintiff's Opposition and the accompanying Declaration filed in connection with Plaintiff's Opposition. The facts and argument in those papers are incorporated by reference herein.

ARGUMENT

**GOOD CAUSE EXISTS FOR THIS COURT TO PERMIT SPECIFIED DISCOVERY PRIOR TO THE COURT'S RULING ON DEFENDANTS' MOTIONS TO STRIKE**

A party bringing a special motion to strike, pursuant to the California Code of Civil Procedure section 425.16, has the burden of showing that the challenged action comes within section 425.16, subdivision (b)(1). See Civ. Proc. Code §425.16(b)(1); *Flatley v. Mauro*, 39 Cal. 4th 299, 314 (2006). As Plaintiff's Opposition sets forth, Defendants have not met their burden. Nevertheless, assuming *arguendo* that Defendants can satisfy their burden, which they cannot, the burden would shift to Plaintiff to show that each of the causes of action in the Amended Complaint are "legally sufficient" and thus satisfy the "minimal merit" standard necessary for her to prevail here. *Mann v. Quality Old Time Service, Inc.*, 120 Cal. App. 4th 90, 105 (2004). In order to establish "minimal merits" with respect to some of her underlying claims, however, Plaintiff requests the opportunity to engage in limited discovery.

Under the California Code of Civil Procedure section 425.16, subdivision (g) a court may, for "good cause," lift the automatic discovery stay imposed by the filing of an anti-SLAPP motion to permit specified discovery limited to the issue raised in the motion. Civ. Code, § 425.16, subd. (g) (2007). Good cause may be established where Defendants possess specific evidence needed by Plaintiff to establish a prima facie case, and Plaintiff can explain the additional facts she expects to uncover through disclosure of the evidence. *LaFayette Morehouse, Inc., et al. v. Chronicle Publ'g Co., et al.*, 37 Cal. App. 4th 855, 868 (1995).

A court must exercise liberal discretion to authorize reasonable discovery where, as here, a defendant possesses evidence needed by a plaintiff to establish her prima facie case. *Mattel, Inc.*, 99 Cal. App. 4th at 1189-90; *Sipple v. Found. For Nat'l Progress, et al.*, 71 Cal. App. 4th 226, 243 (1999) (Zebrowski, J., dissenting) (explaining that reasonable suspicion of the existence a necessary element of a particular claim should be enough to require discovery of the issue, in order to oppose an anti-SLAPP motion). The instant request for discovery is properly limited to seeking only evidence needed to show minimal merits of Plaintiff's claims of extortion,

1 intentional infliction of emotional distress, abuse of process, false light and public disclosure of  
2 private facts. *See Ruiz v. Harbor View Cnty, Assoc.*, 134 Cal. App. 4th 1456, 1475 (2005)  
3 (remanding libel case to trial court to consider whether to permit discovery, under subdivision (g)  
4 of §425.16, on the sole issue of publication). In *Ruiz*, the plaintiff brought an action alleging that  
5 he was the subject of two libelous letters. *Id.* at 1461. The defendant subsequently filed an anti-  
6 SLAPP motion to strike the libel action. *Id.* The plaintiff opposed the motion, arguing that  
7 Section 425.15 did not apply, and simultaneously made a motion for discovery pursuant to Section  
8 425.16, subdivision (g), to prove a necessary element of his case for libel - that the letters were  
9 published. *Id.* The trial court denied the defendant's anti-SLAPP motion to strike on the grounds  
10 that the two letters did not come within the scope of Section 425.16, subdivision (e), which  
11 decision obviated the need to rule on the discovery motion. *Id.* On appeal, the appellate court  
12 reversed the trial court and determined that the two allegedly libelous letters were protected speech  
13 under Section 425.16, and thus remanded the case to the trial court to determine whether the  
14 plaintiff was entitled to limited discovery in order to establish publication. *Id.* at 1475.

15 As explained in more detail below and in the accompanying Garbus Decl., evidence that is  
16 in the sole possession of each of the Defendants (and in a few instances, third-parties) is necessary  
17 for Plaintiff to prove minimal merits of her claims. Without this limited discovery, Plaintiff will  
18 be unable to fully defend against Defendants' Motions (in the event the Court does not otherwise  
19 deny the Motions), and she will thus be denied her due process rights. See *LaFayette Morehouse,  
Inc.*, 37 Cal. App. 4th at 868 (explaining that a universal application of Section 435.16(g)'s  
20 discovery stay might adversely implicate a plaintiff's due process rights).

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## **CONCLUSION**

For all the reasons stated above, Plaintiff Samantha Ronson respectfully request that this Court issue an Order pursuant to Section 425.16, subdivision (g) of the California Rules of Court allowing her to conduct limited discovery for the purpose of opposing Defendants' motions to strike.

Dated: September 12, 2007

BINGHAM MCCUTCHEN LLP

By: Bruce A. Friedman  
Bruce A. Friedman  
Attorneys for Plaintiff  
**SAMANTHA RONSON**

**PROOF OF SERVICE**

I am over eighteen years of age, not a party in this action, and employed in Orange County, California at The Water Garden, Fourth Floor, North Tower, 1620 26th Street, Santa Monica, California 90404-4060. I am readily familiar with the practice of this office for collection and processing of correspondence for mail/fax/hand delivery/next business day delivery, and they are deposited that same day in the ordinary course of business.

On September 12, 2007, I served the attached:

**MEMORANDUM OF LAW IN OPPOSITION TO  
DEFENDANTS' MOTION TO STRIKE THE COMPLAINT**

- (BY FAX) on September 12, 2007, by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. The facsimile machine I used complied with California Rules of Court, Rule 2003(3) and the transmission was reported as complete and without error by the machine. Pursuant to California Rules of Court, Rule 2008(e)(4), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

(BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at Santa Monica, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.

(EXPRESS MAIL/OVERNIGHT DELIVERY) by causing a true and correct copy of the document(s) listed above to be delivered by \_\_\_\_\_ in sealed envelope(s) with all fees prepaid at the address(es) set forth below.

(PERSONAL SERVICE) by causing a true and correct copy of the above documents to be hand delivered in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth below.

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6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct and that this declaration was executed on September 12, 2007, at  
8 Santa Monica, California.

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10 Donna McGee  
11 Donna McGee  
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**Exhibit F**

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12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF LOS ANGELES

14 SAMANTHA RONSON,	)	Case No. BC374174
15 Plaintiff,	)	[Assigned to the Honorable Elihu M Berle, Dept 42]
16 vs	)	
17 SUNSET PHOTO AND NEWS, LLC;	)	REPLY OF DEFENDANT MARIO
18 JILL ISHKANIAN; MARIO LAVANDEIRA dba PEREZ HILTON; and DOES 1 through	)	LAVANDEIRA IN SUPPORT OF MOTION
19 10, inclusive,	)	TO STRIKE THE COMPLAINT
20	)	PURSUANT TO CODE OF CIVIL
21	)	PROCEDURE SECTION 425.16
22	)	[Evidentiary Objections to Declarations of Samantha Ronson and Martin Garbus filed concurrently herewith]
23	)	Date: September 26, 2007
24	)	Time: 8:30 a.m.
25	)	Dept.: 42
26	)	Action filed: July 12, 2007
27	)	
28	)	

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1  
2                   TABLE OF CONTENTS  
3

	<u>Page</u>
I. INTRODUCTION .....	1
II. ARGUMENT .....	2
A. Ronson Fails to Refute the Fact that Her Complaint is Subject to Section 425 16 .....	2
B. Ronson Fails to Demonstrate a Reasonable Probability of Prevailing on Her Defamation Claim .....	3
1. Ronson's Intentionally Vague and Ambiguous Declaration Raises a Reasonable Inference That the Statements Were Substantially True .....	3
2. Ronson Fails to Refute that Lavandeira's Subjective Statements of Opinion Do Not Constitute Provably False Statements .....	6
3. Ronson Fails to Refute that Lavandeira's Statements Were Not Made With Actual Malice .....	7
C. Ronson's Request for Leave to Conduct Discovery Should Be Denied Because It Is Procedurally Defective and Lacks Good Cause .....	8
III. CONCLUSION .....	9

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## TABLE OF AUTHORITIES

	Page
2	
3	<u>CASES</u>
4	<u>Carver v. Bonds</u> , 135 Cal.App 4th 328 (2005) 9
5	
6	<u>Christian Research Institute v. Alnor</u> , 148 Cal.App 4th 71 (2007) 7
7	
8	<u>Fashion 21 v. Coalition for Humane Immigrant Rights of Los Angeles</u> , 117 Cal App 4th 1138 (2004) 3
9	
10	<u>Ferlauto v. Hamsher</u> , 74 Cal.App 4th 1394 (1999) 9
11	
12	<u>McGarry v. University of San Diego</u> , 154 Cal App 4th 97 (2007) 7
13	
14	<u>Navellier v. Sletten</u> , 29 Cal 4th 82 (2002) 3
15	
16	<u>Roberts v. Los Angeles County Bar Association</u> , 105 Cal App 4th 604 (2003) 3
17	
18	<u>Savage v. Pacific Gas &amp; Electric Company</u> , 21 Cal App 4th 434 (1993) 6
19	
20	<u>Seelig v. Infinity Broadcasting Corp.</u> , 97 Cal App 4th 798 (2002) 6
21	
	<u>Tuchscher Development Enterprises, Inc. v. San Diego Unified Port District</u> , 106 Cal.App.4th 1219 (2003) 8
	<u>Tutor-Saliba Corp. v. Herrera</u> , 136 Cal.App.4th 604 (2006) 9
	<u>Vogel v. Felice</u> , 127 Cal App 4th 1006 (2005) 4, 5

## STATUTES

24 | Code of Civ. Proc., § 425.16 | 3, 8

1    I.    INTRODUCTION

2       The opposition of plaintiff Samantha Ronson (“Ronson”) to the motion to strike  
 3       complaint pursuant to Code of Civil Procedure section 425 16 (the “Motion”) brought by  
 4       defendant Mario Lavandeira (“Lavandeira”) is, in actuality, no opposition at all. In fact, *her*  
 5       *entire argument in opposition literally consists of one sentence:* “As Plaintiff’s Opposition sets  
 6       forth, Defendants have not met their burden.” Opposition, p 1, line 10. Despite this conclusory  
 7       statement, *she fails to address, in any manner, any of the issues raised by the Motion.* Instead,  
 8       she devotes a page (of her two-page Opposition) addressing her procedurally improper and  
 9       factually deficient request for leave to conduct discovery pursuant to Section 425 16(g). She also  
 10      submits her declaration ostensibly to demonstrate that the alleged defamatory statements about  
 11      her were false. Significantly, however, *her declaration, which appears intentionally vague and*  
 12      *ambiguous, fails to plainly refute the statements thereby giving rise to a reasonable inference*  
 13      *that the statements were substantially true.*

14       To make matters worse, *the Opposition appears to be a sloppily prepared “cut and*  
 15      *paste” from a different document.* For example, Ronson refers to her “Amended Complaint.”  
 16      However, no amended complaint exists. Opposition, p 1, lines 11-12. She also refers to her  
 17      “claims” for “extortion, intentional infliction of emotional distress, abuse of process, false light  
 18      and public disclosure of private facts.” She has asserted a single claim of defamation. *Id.*, p. 1,  
 19      line 27 through p. 2, line 2.<sup>1</sup>

20       As demonstrated below, Lavandeira’s Motion must be granted for the following reasons:

- 21       1       Ronson fails to refute, in any way, that her complaint is subject to Section 425 16;  
 22       2       Ronson fails to demonstrate that her defamation claim against Lavandeira has a  
 23              reasonable probability of success for the following reasons:

---

27       <sup>1</sup> The sloppiness of the Opposition is further reflected by Ronson’s repeated reference to  
 28       “defendants.” While Ronson has sued multiple parties, the Motion was filed solely on behalf of  
 Lavandeira.

- 1           a. Ronson fails to plainly and unequivocally refute the allegedly defamatory  
 2           statements thereby giving rise to a reasonable inference that the statements  
 3           were substantially true;
- 4           b. Ronson fails to refute, in any way, that Lavandeira's subjective statements  
 5           of opinion do not constitute provably false statements; and
- 6           c. Ronson fails to refute, in any way, that Lavandeira's statements were not  
 7           made with actual malice.
- 8           3. Ronson's request for discovery must be denied because it is procedurally  
 9           improper and lacks good cause as required by Section 425 16(g). Ronson failed to  
 10          file a noticed motion and the proposed discovery is not reasonably calculated to  
 11          shed light on the matters at issue or affect the outcome of the Motion

12          II. ARGUMENT

13          A       Ronson Fails to Refute the Fact that Her Complaint is Subject to Section 425.16  
 14          As demonstrated by the Motion, Ronson's complaint is subject to Section 425.16(e)(3) in  
 15          that it is based on Lavandeira's right of free speech in connection with statements made in a  
 16          public forum regarding an issue of public interest. Motion, pp 5-10. Lavandeira demonstrated  
 17          that his Website is a public forum as a matter of law. Id., p 6. He also demonstrated that Lohan,  
 18          the Accident, and Ronson are matters of public interest. Id., pp. 6-9. He further demonstrated  
 19          that drug and alcohol use, under age drinking, driving under the influence of drugs and alcohol,  
 20          and celebrity misconduct are also matters of public interest. Id., pp. 9-10. Despite Ronson's  
 21          assertion that Lavandeira failed to meet his burden, *she completely fails address the applicability*  
 22          *of Section 425.16 to her complaint.* By failing to oppose the Motion on this issue, Ronson  
 23          concedes that her complaint is subject to Section 425.16

24          B       Ronson Fails to Demonstrate a Reasonable Probability of Prevailing on Her  
 25          Defamation Claim

26          Once the defendant makes a prima facie showing that the complaint is subject to Section  
 27          425.16, the burden shifts to the plaintiff to establish a "probability" that it will prevail on its  
 28          claims Section 425.16(b). To meet this burden, the plaintiff must demonstrate that the

complaint is both legally sufficient and supported by a prima facie showing of facts sufficient to support a favorable judgment if the evidence by plaintiff is credited. Navellier v. Sletten, 29 Cal.4th 82, 89-93 (2002). In opposing an anti-SLAPP motion, the plaintiff must present *admissible evidence* and *cannot rely on the allegations of the complaint*. Roberts v. Los Angeles County Bar Assoc., 105 Cal.App.4th 604, 613-614 (2003). *Evidence that could not be admitted at trial cannot overcome an anti-SLAPP motion*. Fashion 21 v. Coalition for Humane Immigrant Rights of Los Angeles, 117 Cal.App.4th 1138, 1148 (2004).

## Ronson's Intentionally Vague and Ambiguous Declaration Raises a Reasonable Inference that the Statements Were Substantially True

10 As will be demonstrated below, Ronson fails to address the issues raised by the Motion.  
11 Instead, she submits her declaration ostensibly for the purpose of refuting the alleged defamatory  
12 statements made by Lavandeira. However, as demonstrated by the concurrently filed Evidentiary  
13 Objections, Ronson's declaration is not competent evidence. Moreover, even if it were  
14 competent, *the apparently intentional ambiguity and vagueness of her declaration gives rise to*  
15 *a reasonable implication that Lavandeira's statements were substantially true.*

16 Ronson states in her declaration that "I have never placed cocaine next to Lindsay Lohan  
17 in a car. I am not a drug user. I never arranged for a photographer to take photographs of  
18 Lindsay Lohan while she was in a car." Ronson Decl., ¶ 2. Significantly, however, her  
19 declaration does not refute the alleged defamatory statements made about her and upon which  
20 she sues.

21 The statements republished by Lavandeira did not state that *Ronson placed cocaine next*  
22 *to Lohan in a car or that Ronson was a drug user.* Rather, the statements were that “Ronson was  
23 the one who was holding the cocaine later found in Lindsay’s car,” and “the cocaine that was  
24 found in Lohan’s car after her crash may have been RONSON’s!” Complaint, ¶¶ 13, 20. The  
25 statements also did not indicate that *Ronson arranged for a photographer to take photographs of*  
26 *Lohan while she was in a car.* Rather, the statement was that Ronson “allegedly entered into an  
27 agreement with a photo agency to tip them off to her whereabouts with Lindsay, even creating  
28 photo-ops for them.” Complaint, ¶ 20.

Given the discrepancies between Ronson's declaration and the alleged defamatory statements, her declaration raises more questions than it answers. For example, there is no dispute that the police found cocaine in Lohan's car after the Accident. See Complaint, ¶ 10 ("the police who were called to the scene found cocaine in Lohan's car."). Given that the statements did not indicate that Ronson placed cocaine next to Lohan in a car, her declaration begs the question – did Ronson place the cocaine somewhere else in Lohan's car than beside Lohan? Was Ronson holding the cocaine when the Accident occurred? If Ronson was not holding the cocaine, who was? Also, if the cocaine did not belong to Ronson, whose cocaine did the police find?

Ronson also states merely that she is not a drug user in the present tense. Significantly, she fails to state that she has not used drugs in the past or in the very recent past such as, for example, on May 26, 2007, when the Accident occurred. Therefore, it is quite possible that she was a drug user just prior to actually signing her declaration. Similarly, Ronson's statement that "I never arranged for a photographer to take photographs of Lindsay Lohan while she was in a car," also raises obvious questions. Did Ronson arrange for photographers to take photographs outside of a car? Coming out of a night club? Outside of her apartment? Her failure to unequivocally state that she has never had an agreement with, or arranged for, photographers to obtain photographs of Lohan at any time or any place, raises the reasonable implication that she did, in fact, have some arrangement with photographers.

The decision in Vogel v. Felice, 127 Cal.App.4th 1006, 1021-1022 (2005) demonstrates that Ronson's failure to plainly and unequivocally refute the allegedly defamatory statements gives rise to a reasonable implication that the statements about her were substantially true.

In Vogel, two political candidates sued a web site's host for defamation based on the statements posted on defendant's website. Plaintiff Vogel contended the statements that he was a "deadbeat dad" and "wanted" as such, and that he "owes his Wife and kids thousands" were false and defamatory. In opposing the defendant's motion pursuant to Section 425.16, Vogel submitted a declaration stating "I do not owe my wife and kids thousands." The court in Vogel held that this statement was a negative pregnant (i.e., a denial of the literal truth of the total

1 statement but not of its substance) because “by denying a specified amount, it leaves open the  
 2 possibility of a debt of some other, perhaps substantially equivalent, amount.” Additionally, by  
 3 using the conjunction “and” to state that he did not owe his wife *and* kids thousands created  
 4 ambiguity in the statement that the plaintiff could have easily avoided:

5       “*This ambiguity becomes all the more striking, considering the*  
 6 *presumptive ease with which Vogel could have stated the true*  
 7 *facts, i.e., how much he owed, and when and how the debts, or*  
 8 *portions of it, were discharged. Vogel’s failure to plainly refute the*  
 9 *defamatory imputation by stating the true facts may be understood*  
      *to imply that he did in fact continue to owe substantial amounts of*  
      *unpaid child support. Certainly it was insufficient to establish his*  
      *ability to prove the substantial falsity of the imputations that he*  
      *was a ‘deadbeat dad’ who ‘owed thousands.’”*

10 Id. at 1021-1022.

11       Similarly, while plaintiff Graniss in Vogel contended that defendant’s statement that he  
 12 was “Drunk and Chewin’ tobacccy,” were false, Graniss never stated the true facts to which the  
 13 statement would have to be compared in order to establish substantial falsity. Id. at 1022. In  
 14 finding his declaration insufficient, the court stated:

15       “He denied being an alcoholic, but not that he consumed alcohol to  
 16 the point of inebriation, or that he had done so often, or that he like  
 17 do to so. Similarly, he used only the present tense in denying that  
 18 he chewed tobacco; for all the records shows, he might have  
      chewed it in the very recent past, and might intend to chew it again  
      in the future ”

19 Id. at 1022-1023.

20       Like the declarations submitted in Vogel, the ambiguity of Ronson’s declaration is all the  
 21 more striking considering the presumptive ease with which she also could have stated the true  
 22 facts. Moreover, she also does not state the true facts to which the alleged defamatory statements  
 23 can be compared in order to establish substantial falsity. Her failure to plainly and unequivocally  
 24 refute the alleged defamatory statements by stating the true facts may be reasonably understood  
 25 to imply that she was holding the cocaine at the time of the Accident, that the cocaine found by  
 26 the police did belong to her, and that she did have some deal or arrangement with photographers  
 27 to obtain photos of Lohan. As a result, her declaration is insufficient to establish the falsity of  
 28 the statements and to meet her burden under Section 425.16.

1                   2.       Ronson Fails to Refute that Lavandeira's Subjective Statements of  
 2                   Opinion Do Not Constitute Provably False Statements

3                   Contrary to the declaration of Martin Garbus, Lavandeira's Motion is not solely based on  
 4 Ronson's inability to prove "the requisite state of mind." See Garbus Decl., p. 1, ¶ 3. Rather, as  
 5 demonstrated by the Motion, Ronson's claim is based on two categories of statements: (1)  
 6 Lavandeira's subjective statements of opinion about Ronson and (2) Lavandeira's republishing of  
 7 statements made by others about Ronson. Motion, p. 10; see also Complaint, ¶¶ 20-21

8                   With regard to the first category of statements, the law is well settled that statements of  
 9 opinion are not actionable. Savage v. Pacific Gas & Elec. Co., 21 Cal.App.4th 434, 445 (1993).  
 10 Thus, statements that cannot be reasonably interpreted as stating "actual facts" about an  
 11 individual cannot form the basis of a defamation action. Seelig v. Infinity Broadcasting Corp.,  
 12 97 Cal.App.4th 798, 809 (2002). In the Motion, Lavandeira demonstrated that his subjective  
 13 statements of opinion about Ronson (i.e., Ronson has been "toxic" to Lohan, Lohan does not  
 14 need enemies with friends like Ronson, and that Lavandeira blames Ronson for Lohan's  
 15 problems), are not actionable because they cannot be reasonably interpreted as stating actual facts  
 16 about Ronson.

17                  *Significantly, Ronson fails to address this issue in any way.* Again, by failing to oppose  
 18 the Motion on this issue, Ronson concedes that Lavandeira's subjective statements of opinion  
 19 about Ronson are not actionable as a matter of law.

20                  3.       Ronson Fails to Refute that Lavandeira's Statements Were Not Made with  
 21                   Actual Malice

22                  Ronson does not dispute that she is a public figure and that she must prove, by clear and  
 23 convincing evidence, that Lavandeira's statements were made with actual malice. As such, to  
 24 overcome Lavandeira's Motion, she was required to present clear and convincing evidence that  
 25 Lavandeira acted with actual malice. Christian Research Institute v. Alnor, 148 Cal.App.4th 71,  
 26 84-85 (2007) (anti-SLAPP motion properly granted where public figure plaintiff failed to submit  
 27 "clear and convincing" evidence of actual malice in support of defamation claim). This standard  
 28 "presents a heavy burden, far in excess of the preponderance sufficient for most civil litigation."

1     The burden of proof by clear and convincing evidence requires a finding of high probability. The  
 2     evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to  
 3     command the unhesitating assent of every reasonable mind.” Id., at 84 (citations omitted)

4                 To show actual malice, Ronson was required to demonstrate that Lavandeira “either knew  
 5     his statement was false or subjectively entertained serious doubt that his statement was truthful.”  
 6     Christian Research Institute, 148 Cal App 4th at 84. The test is “*a subjective test, under which  
 7     the defendant’s actual belief concerning the truthfulness of the publication is the crucial  
 8     issue.*” McGarry v. University of San Diego, 154 Cal App 4th 97, 114 (2007) (emphasis added).  
 9     The reckless disregard test is not a negligence test measured by whether a reasonably prudent  
 10    person would have published, or would have investigated before publishing, the defamatory  
 11    statement. Instead, the evidence must “permit the conclusion that the defendant actually had a  
 12    ‘high degree of awareness of . . . probable falsity.’ As a result, failure to investigate before  
 13    publishing, even when a reasonably prudent person would have done so, is not sufficient to  
 14    establish reckless disregard.” Id. (citations omitted). Thus, to support a finding of actual malice,  
 15    the failure to investigate must fairly be characterized as demonstrating the speaker purposefully  
 16    avoided the truth or deliberately decided not to acquire knowledge of facts that might confirm the  
 17    probable falsity of charges. Id.

18                 In support of the Motion, Lavandeira presented specific evidence demonstrating that prior  
 19    to posting his statements on the Website, he had heard at least 20-50 times that Ronson had a  
 20    drug problem. See Lavandeira Declaration in Support of Motion, ¶¶ 11. He also presented  
 21    evidence that genuinely believed that the statements regarding Ronson were true and he had no  
 22    doubts of that they were false. Id., ¶ 19 *Lavandeira’s evidence is uncontradicted.*

23                 Rather than attempting to meet her burden under Section 425.16, Ronson instead requests  
 24    that she be granted leave to conduct discovery to depose Lavandeira regarding the truth or falsity  
 25    of his statements and his sources of information. However, as demonstrated below, Ronson’s  
 26    request for discovery must be denied because it is procedurally improper and fails to show good  
 27    cause. Moreover, this proposed discovery will not shed light on the issue of actual malice  
 28    because it is not directed toward Lavandeira’s subjective belief about the truth of the statements.

<sup>1</sup> As a result, Ronson fails to, and cannot, meet her burden under Section 425.16.

C. Ronson's Request for Leave to Conduct Limited Discovery Should Be Denied  
Because It Is Procedurally Defective and Lacks Good Cause

4 Section 425.16(g) expressly requires that any request to conduct limited discovery  
5 pending a hearing on a special motion to strike must be made in the form of a noticed motion.  
6 Thus, a request for permission to conduct discovery that is not made by noticed motion is  
7 improper and must be denied. Tuchscher Development Enterprises, Inc. v. San Diego Unified  
8 Port Dist., 106 Cal.App 4th 1219, 1247–1248 (2003) (Section 415.16(g) “requires both a timely  
9 motion and a showing of good cause. Absent either, the request must fail.”) Ronson failed to file  
10 a noticed motion.<sup>2</sup> Instead, she merely raises the issue in her Opposition. Opposition, pp. 1-2.  
11 Her request is improper and must be denied.

Ronson also fails to show that good cause exists for the proposed limited discovery.  
Good cause is not establish where the requested discovery is not reasonably calculated to shed  
light on the matters at issue or affect the outcome of the motion to strike. Carver v. Bonds 135  
Cal App 4th 328, 359 (2005); see also Tutor-Saliba Corp. v. Herrera, 136 Cal App 4th 604, 618-  
619 (2006). By the declaration of Martin Garbus, Ronson asserts that she needs to depose  
Lavandeira to establish that the “rumors” about her were false and that the source of Lavandeira’s  
information “could not be deemed responsible sources.” Garbus Decl., ¶ 3.

This proposed discovery does not relate to the issues raised by the Motion. The issues are whether Lavandeira's subjective statements of opinion were provably false statements and whether his statements were made with actual malice. The determination of whether a statement constitutes fact or opinion is a question of law for the court. Ferlauto v. Hamsher, 74 Cal.App.4th 1394, 1401 (1999). Therefore, discovery cannot shed light on this issue. Additionally, the crucial issue with regard to actual malice is Lavandeira's subjective belief about the truth of the statements. Ronson presents no evidence whatsoever to suggest that Lavandeira's

<sup>2</sup> Significantly, she also fails to request a continuance of the hearing on the Motion. Therefore, even if the Court were to grant her leave to conduct discovery, the hearing on the Motion would be conducted before the discovery could take place.

1 declaration was not truthful or that he purposefully avoided the truth. As such, Ronson fails to  
2 provide good cause for the proposed discovery.

3 III CONCLUSION

4 For the foregoing reasons, Lavandeira respectfully requests that the Court grant his  
5 motion in its entirety, deny Ronson's request for discovery, and award Lavandeira attorneys' fees  
6 and costs associated with this Motion

7  
8 DATED: September 19, 2007

FREEDMAN & TAIELMAN, LLP  
DOLL, AMIR & ELEY, LLP

9  
10 By:   
11 BRYAN J. FREEDMAN  
12 Attorneys for Defendant MARIO LAVANDEIRA

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA** ]  
] **COUNTY OF LOS ANGELES** ]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1901 Avenue of the Stars, Suite 500, Los Angeles, California 90067.

On September 19, 2007, I served the following document(s) described as ***REPLY OF DEFENDANT MARIO LAVANDEIRA IN SUPPORT OF MOTION TO STRIKE THE COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 425.16*** on interested parties:

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. from **(310) 201-0045** The transmission was reported as complete and without error, and a transmission report was properly issued by the transmitting facsimile machine.
  - by placing a true copy of the document(s) listed above in a sealed envelope(s), with postage thereon fully prepaid, addressed as set forth below I am readily familiar with the firm's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service On this date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for collection and mailing at the address above following our office's ordinary business practices. The envelope(s) will be deposited with the United States Postal Service on this date, in the ordinary course of business
  - by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill and causing the envelope to be delivered to a Federal Express agent for next business day delivery to the address(es) listed below.
  - (VIA HAND DELIVERY) in a sealed envelope a copy of the above document, and delivered it to:

[SEE ATTACHED MAILING SERVICE LIST]

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this Proof of Service was executed on September 19, 2007 at Los Angeles, California.

  
Tiffany Davis

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**Exhibit G**

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 42 HON. ELIHU M. BERLE, JUDGE  
4

5 SAMANTHA RONSON, )  
6 PLAINTIFF, )  
7 V. ) BC 374174  
8 )  
9 SUNSET PHOTO AND NEWS LLC; )  
10 JILL ISHKANIAN; MARIO LAVANDEIRA )  
d/b/a PEREZ HILTON, and DOES )  
1-10, inclusive, )  
11 DEFENDANTS. )  
12 )  
13

ORIGINAL

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 WEDNESDAY, SEPTEMBER 26, 2007  
16

17 APPEARANCES:

18 FOR PLAINTIFF BINGHAM McCUTCHEN LLP  
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22 FOR PLAINTIFF DAVIS & GILBERT LLP  
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25

26 (Appearances continued on next page.)  
27

28 LINDA NISHIMOTO, CSR 9147  
OFFICIAL REPORTER

1 APPEARANCES (Continuing):  
2  
3

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8 FOR DEFENDANT FREEDMAN & TAITELMAN, LLP  
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1 CASE NUMBER: BC 374174  
2 CASE NAME: SAMANTHA RONSON, ET AL.,  
3 VERSUS  
4 SUNSET PHOTO AND NEWS LLC  
5 LOS ANGELES, CALIFORNIA WEDNESDAY, SEPTEMBER 26, 2007  
6 DEPARTMENT 42 HON. ELIHU M. BERLE, JUDGE  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8 REPORTER: LINDA NISHIMOTO, CSR NO. 9147  
9 TIME: A.M. SESSION

10 \*\*\*\*

11 (In open court:)

12 THE COURT: Ronson versus Sunset Photo.

13 MS. BROWN: Jacqueline Brown for defendant Mario  
14 Lavandeira.

15 MR. FREEDMAN: Bryan Friedman for the same  
16 defendant.

17 MR. JEFFRIES: Wayne Jeffries for plaintiff Ronson,  
18 and I have with me and would introduce a member of the New  
19 York bar in good standing, Mr. Martin Garbus.

20 MR. WAINER: I represent Sunset Photo and News and  
21 Jill Ishkanian.

22 MR. JEFFRIES: We applied ex parte for the  
23 admission of Mr. Garbus.

24 THE COURT: Where is the ex parte?

25 (Pause.)

26 THE COURT: I have received the ex parte  
27 application of Martin Garbus to appear pro hac vice in this  
28 case to represent the plaintiff.

1 Any opposition?

2 MR. FREEDMAN: Your Honor, we don't believe that it  
3 complies with the rules. We believe you have to give 16  
4 days notice under the rules and there is no grounds for  
5 ex parte relief, and that at a minimum, they would get an  
6 ex parte order for shortening time.

7 However, if your Honor wants to make a  
8 limited exception for Mr. Garbus to argue this motion, we  
9 don't have a particular objection, but it follows like  
10 another example of not following the particular rules with  
11 respect to this motion.

12 THE COURT: We don't have to make disparaging  
13 comments. I just asked if you were going to stipulate to  
14 it.

15 Normally, if there was an ex parte  
16 application that was stipulated to, I would consider it on  
17 an ex parte basis, but if there is an objection, the court  
18 is not going to grant the ex parte application and that the  
19 court will require a noticed motion to allow counsel to  
20 appear pro hac vice.

21 However, I take it there is no objection for  
22 Mr. Garbus to appear on this motion.

23 MR. FREEDMAN: That's correct.

24 MR. JEFFRIES: Thank you, counsel.

25 Thank you, your Honor.

26 THE COURT: We will allow Mr. Garbus to appear and  
27 argue this motion.

28 We are going to take a five-minute recess.

1                   Ms. Ronson has chosen to publicly associate  
2 herself with Lindsay Lohan for personal reasons,  
3 professional reasons, and I can't comment on that. But the  
4 fact of the matter is that she has chosen to do that, and as  
5 a result of that involvement, public involvement, as well as  
6 her involvement in the accident makes her connected to an  
7 issue of public interest.

8                   THE COURT: Let me ask you a question, plaintiff's  
9 counsel: What does the plaintiff do for a living?

10                  MR. GARBUS: Excuse me?

11                  THE COURT: What does plaintiff do for a living?

12                  MR. GARBUS: She is a disc jockey. She works at  
13 clubs, parties, bar mitzvahs, weddings. That is what she  
14 does.

15                  It seems clear to me that had I filed timely  
16 a notice of motion, we would be talking about discovery on  
17 the question of malice. I respectfully request that my  
18 client not be punished because I did not file a notice of  
19 motion timely.

20                  THE COURT: I think that I would like to give this  
21 more consideration. What is the date of the next hearing?

22                  MR. GARBUS: The 10th.

23                  THE COURT: I am going to continue the hearing on  
24 this matter until October 10th.

25                  MS. BROWN: Can I just make one final point?

26                  THE COURT: 8:30 a.m. Yes.

27                  MS. BROWN: In Ms. Ronson's complaint she alleges  
28 at paragraph 22 that:

1                   "Defendants knew that the  
2                   statements about Ronson described above  
3                   were false and/or recklessly disregarded  
4                   the falsity of these statements when  
5                   they published them. Defendants  
6                   published these statements with actual  
7                   malice...."

8                   Actual malice is not an essential element of  
9                   a claim for defamation. It only arises if you are a public  
10                  figure. By specifically alleging reckless disregard or  
11                  actual malice, Ms. Ronson is essentially admitting that she  
12                  is a public figure for purposes of her defamation claim.

13                  MR. GARBUS: That is not so.

14                  THE COURT: Well, I will let you argue that  
15                  further. I want to review the papers again and read the  
16                  cases again so I am going to continue this matter until  
17                  October 10th at 8:30 a.m.

18                  MR. GARBUS: Your Honor, may we have an opportunity  
19                  to submit a final brief?

20                  THE COURT: I will give you the opportunity. No  
21                  more evidence. This is an additional opportunity to submit  
22                  new declarations. The evidence is what it is.

23                  Now we know what some of the issues are.  
24                  We knew beforehand, but they have been crystalized. I will  
25                  give the parties an opportunity to file supplemental legal  
26                  briefing only, a maximum of ten pages. Each side will have  
27                  until October 3rd within which to file any supplemental  
28                  legal briefing.

1 MR. GARBUS: Thank you.

2 Your Honor, may I be permitted to continue  
3 the argument on October 10th?

4 THE COURT: I'm sorry?

5 MR. GARBUS: Continue the argument. I was not  
6 admitted pro hac vice.

7 THE COURT: Yes, yes. Certainly.

8 MR. GARBUS: Thank you.

9 THE COURT: And you can file a motion too. But you  
10 may continue to appear.

11 MR. GARBUS: Yes. Thank you.

12 THE COURT: Thank you, counsel.

13 Notice waived?

14 MR. GARBUS: Notice waived.

15 MS. BROWN: Noticed waived.

16 (Proceeding adjourned.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT 42

HON. ELIHU M. BERLE, JUDGE

5 SAMANTHA RONSON,

)

)

)

)

7 PLAINTIFF

)

V.

)

BC 374174

) REPORTER'S

) CERTIFICATE

9 SUNSET PHOTO AND NEWS, LCC, et al.,

)

)

10 DEFENDANTS.

)

)

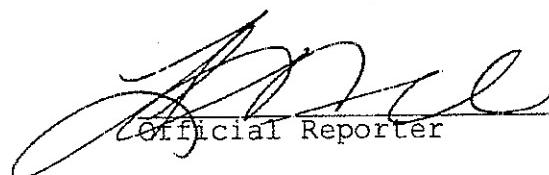
12 STATE OF CALIFORNIA )  
13 ) SS

COUNTY OF LOS ANGELES)

15 I, Linda Nishimoto, Official Reporter of the Superior  
16 Court of the State of California, for the County of Los  
17 Angeles, do hereby certify that the foregoing pages, 1  
18 through 49, inclusive, comprise a full, true and correct  
19 transcript of the proceedings held on Wednesday, September  
20 26, 2007, in the matter of the above-entitled cause.

22 Dated this 1st day of October, 2007.

24  
25  
26  
27  
28



Official Reporter

C.S.R. 9147

**Exhibit H**

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20 SAMANTHA RONSON

21  
22 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
23  
24 COUNTY OF LOS ANGELES

25  
26  
27  
28  
1 SAMANTHA RONSON,

Plaintiff,  
v.

SUNSET PHOTO AND NEWS, LLC; JILL  
ISHKANIAN, MARIO LAVANDEIRA doing  
business as PEREZ HILTON, and DOES 1-10,  
inclusive,

Defendants.

No. BC 374174

HON. ELIHU M. BERLE

MEMORANDUM OF POINTS AND  
AUTHORITIES IN OPPOSITION TO  
THE CAL. CODE §425.16 MOTIONS OF  
MARIO LAVANDEIRA AND JILL  
ISHKANIAN

Action Filed: July 17, 2007

Date: October 10, 2007  
Time: 8:30 a.m.  
Dept: 42

## TABLE OF CONTENTS

2	STATEMENT OF FACTS	1
3	ARGUMENT	1
4	1. THE ARTICLE AND ITS CONTEXT	1
5	2. DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY DECLARATIONS SHOW THE MATTER WAS OF PRIVATE CONCERN SET FORTH IN A PRIVATE FORUM AND THUS A SLAPP MOTION IS INAPPROPRIATE.	2
6	3. DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY DECLARATIONS SHOW DEFENDANTS CANNOT MEET THE TEST FOR THE APPLICATION OF SLAPP	5
7	4. DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY DECLARATIONS SHOW PLAINTIFFS SURPASS THE STANDARD FOR DEFEATING A SLAPP MOTION	6
8	5. THE RECORD SHOWS ACTUAL MALICE AND RECKLESSNESS	7
9	6. PLAINTIFFS ARE ENTITLED TO COUNSEL FEES ON THIS MOTION	8
10	CONCLUSION	10

## TABLE OF AUTHORITIES

**FEDERAL CASES**

STATE CASES	
<i>Briggs v. Eden Council for Hope and Opportunity</i> (1999) 19 Cal. 4th 1106, fn. 9 p.	3
<i>Commonwealth Energy Corp. v. Investor Data Exchange, Inc.</i> (2003) 110 Cal. App. 4th 26 [1 Cal. Rptr. 3d 390]	3
<i>Computer Express v. Lee Jackson</i> , 113 Cal. Rptr. 2d 625	8
<i>Consumer Justice Center v. Trimedica International, Inc.</i> (2003) 107 Cal. App. 4th 595 [132 Cal. Rptr. 2d 191]	3
<i>Du Charme v. International Brotherhood of Electrical Workers</i> (2003) 110 Cal. App. 4th 107 [1 Cal. Rptr. 3d 501]	3
<i>Matson v. Dvorak</i> (1995) 40 Cal. App. 4th 539	6
<i>Olaes v. Nationwide Mutual Insurance Co.</i> (2006) 135 Cal. App. 4th 1501	3
<i>Paul for Council v. Hanyecz</i> (2001) 85 Cal. App. 4th 1356	6
<i>Reader's Digest Association v. Superior Court, supra</i> , 37 Cal. 3d 244	7
<i>Rivera v. American Federation of State, County and Municipal Employees, AFL-CIO</i> (2003) 105 Cal. App. 4th 913 (130 Cal. Rptr. 2d 81) [23] ( <i>Rivero</i> )	3, 4
<i>Rosenaur v. Scherer</i> (2001) 88 Cal. App. 4th 260	6
<i>Seelig v. Infinity Broadcasting Corp.</i> (2002) 97 Cal. App. 4th 798	4, 5
<i>Taus v. Loftus</i> (2007) 40 Cal. 4th 683 [55]	5
<i>Terry v. Davis Community Church</i> (2005) 131 Cal. App. 4th 1534	3
<i>Wallace v. Consumers Cooperative of Berkley, Inc.</i> (1985), 170 Cal. App. 3d 836 [216 Cal. Rptr. 649]	9, 10
<i>Wilbanks v. Wolk</i> , 121 Cal. App. 4th 883, 17 Cal. Rptr. 36 (2004)	3

## **STATEMENT OF FACTS**

A recitation of facts relevant to this matter is contained in Plaintiff's Complaint, Defendants' Moving and Reply papers and in the Samantha Ronson declarations dated September 19, 24 and 28, 2007 and the Martin Garbus declarations dated September 14, 24 and 28, 2007, submitted in opposition to the SLAPP motions, and the Court Argument on September 26, 2007 briefs previously submitted. The facts and arguments in those papers and argument are incorporated by reference therein.

## ARGUMENT

## 1. THE ARTICLE AND ITS CONTEXT

Of course, the report on the Perez Hilton site is libelous in nature. But it is not just the words of Hilton's report. It is Perez Hilton's confirmation of the Celebrity Babylon report and the printed and written material he adds to the report.

In some ways this is a case of first impression. I have not seen a website such as the defendants have in this case and I have not seen a "reporter" such as Perez Hilton. Nor have I seen a case dealing with it.

With respect to the Hilton site, the defendants' paper shows:

- (a) The first thing the reader sees is "I [Love] Pussy" scrawled across a woman's face on a tawdry controlled website that sells products of Hilton, XXX films, and access to millions of gay profiles and gives you pictures of the website owner.
  - (b) The reader then identifies the woman as Samantha Ronson.

- (c) The reader then reads Hilton story added to celebitchy.com. Every fact regarding Ronson is totally false. The reader does not know it is fabricated
  - (d) The reader then reads Hilton's confirmation of the events from another website, Celebrity Babylon. Every fact regarding Hilton is totally false. The reader does not know it is fabricated.

Defendants' papers show the automobile accident involving Lohan has already been written bout at great length in the media. But Defendants, who control their own sites, which are not public forums, must do more to get viewers. Perez Hilton fabricates tawdry stories. He does not merely repeat the Babylon report. He adds to it, and to justifies it, he adds additional facts, making this into a different new story from the one ABC, CNN and LA Times reports – Ronson cheating on her friend, Ronson placing her cocaine, Ronson making money by setting Lohan up for photographers, is the real “story” the website readers drawn to these columns want to read. (All the underlining in the brief is ours.)

2. DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY DECLARATIONS SHOW THE MATTER WAS OF PRIVATE CONCERN SET FORTH IN A PRIVATE FORUM AND THUS A SLAPP MOTION IS INAPPROPRIATE.

Prior judicial interpretations of the public-issue requirement support our argument. Courts have recognized five principles to guide the determination whether speech concerns an issue of public interest: "(1) public interest does not equate with mere curiosity; (2) a matter of public interest should be a matter of concern to a substantial number of people, not to a relatively small, specific audience; (3) there should be some degree of closeness between the statements at issue and the asserted public interest; (4) the focus of the speaker's conduct should be the public interest rather than an effort to 'gather ammunition' for a private controversy; and (5) those charged with defamation cannot, by their own conduct, create their own defense by

1 making the claimant a public figure or by creating a public issue" (*Olaes v. Nationwide Mutual*  
 2 *Insurance Co.* (2006) 135 Cal. App. 4<sup>th</sup> 1501, 1510-1511; *Terry v. Davis Community Church*  
 3 (2005) 131 Cal.App. 4<sup>th</sup> 1534, 1546-1547; *Weinberg, supra*, 110 Cal. App. 4<sup>th</sup> at pp. 1132-1133;  
 4 see *Dun & Bradstreet, Inc v Greenmoss Builders, Inc* (1985) 472 U.S. 749, 761-762  
 5 ["[whether] . . . speech addresses a matter of public concern must be determined by [the  
 6 expression's] content, form, and context . . . as revealed by the whole record." [Citation]"  
 7 (plurality opinion of Powell, J.); *Du Charme, supra*, 110 Cal. App. 4<sup>th</sup> at p. 117 ["judges and  
 8 attorneys will, or should know a public concern when they see it"], citing *Briggs v. Eden Council*  
 9 *for Hope and Opportunity* (1999) 19 Cal. 4<sup>th</sup> 1106, 1122, fn. 9.)

11 The fact that Lohan was involved in an accident was of public interest. MSNBC,  
 12 CNN, The New York Times and the Los Angeles Times all reported on it. The fact that  
 13 Samantha Ronson was involved and did the things Hilton says she did was not of public interest.  
 14 As Defendants' papers show, she was not mentioned in any media. Celebrity.com then wrote  
 15 about it.

16 As the Court Appeals Court said in *Wilbanks v. Wolk* 121 Cal. App. 4<sup>th</sup> 883, 17  
 17 Cal. Rptr. 36 (2004), the most commonly articulated definitions of

18 "statements made in connection with a public issue" focus on whether (1) the subject of  
 19 the statement or activity precipitating the claim was a person or entity in the public eye;  
 20 (2) the statement or activity precipitating the claim involved conduct that could affect  
 21 large number of people beyond the direct participants; and (3) whether the statement or  
 22 activity precipitating the claim involved a topic of widespread public interest.  
 23 (*Commonwealth Energy Corp. v. Investor Data Exchange, Inc.* (2003) 110 Cal.App.4<sup>th</sup>  
 24 26, 33 [1 Cal. Rptr. 3d 390]; *Rivera v. American Federation of State, County and*  
 25 *Municipal Employees, AFL-CIO* (2003) 105 Cal. App. 4<sup>th</sup> 913, 924 [130 Cal. Rptr. 2d 81]  
 26 (*Rivero*).) As to the latter, it is not enough that the statement refer to a subject of  
 27 widespread public interest; the statement must in some manner itself contribute to the  
 28 public debate. (*Du Charme v. International Brotherhood of Electrical Workers* (2003)  
 110 Cal.App.4<sup>th</sup> 107 [1 Cal. Rptr. 3d 501] (*Du Charme*) [report that an employee was  
 removed for financial mismanagement was informational, but not connected to any  
 discussion, debate or controversy]; *Consumer Justice Center v. Trimedica International,*  
*Inc.* (2003) 107 Cal. App. 4<sup>th</sup> 595, 601 [132 Cal. Rptr. 2d 191] [advertisements about a  
 pill offering a natural alternative to breast implants are not about the general topic of

1           herbal supplements]; *Rivero, supra*, 105 Cal. App. 4<sup>th</sup> at p. 924 [reports that a particular  
2 supervisor was fired after union members complained of his activities are not a  
3 discussion of policies against unlawful workplace activities])

4           As we pointed out, one of Perez Hilton's other exclusives was that in April 27,  
5 2007 Fidel Castro died. It was on the front page of the Wall Street Journal and later referred to  
6 in Newsday, the Miami Herald and dozens of other media. He maintained it was true for several  
7 days and that the American Government was suppressing it. When Castro (who is today alive)  
8 was shown to be alive, Hilton admitted it was gossip. He is known as one of America's better-  
9 known liars, he has no regard for the truth, fabrication is a way of life.

10          But for the hoax, neither Fidel Castro nor Ms. Ronson would have been in a story.

11          Ms. Ronson's "celebrity" has nothing to do with the elements of defendant's  
12 story. Her celebrity if there is any, is as an entertainment figure. Hilton then embellished on the  
13 story and as it whipped around more and more false facts were added. Perez Hilton's papers  
14 totally exaggerate Samantha Ronson's career.

15          The chief cases relied upon by defendants are totally inapposite to this case. The  
16 California Appeals Courts have disagreed about whether certain newspapers and certain web  
17 sites are, or, are not public forums. With respect to these two sites there can be no question  
18 Perez Hilton and Celebrity com are not public forums – not marketplaces of ideas. Here the  
19 editors of both controls the site. They can put on and keep off what the editor wishes. They are  
20 sites of specific demographic interest, not for a wide public interest. They are sites for celebrity  
21 bashers of a certain kind – a different kind than the National Enquirer

22          *Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal. App. 4<sup>th</sup> 798 was the case  
23 most relied upon by Defendant in both their briefs and argument. It has nothing to do with this  
24 case. First of all the words in *Seelig* were not libelous. Secondly, the Court noted that reality  
25 shows and talk radio, both directly involved in that case, are the new phenomena in America.  
26  
27  
28

1 The plaintiff in *Seelig* appeared voluntarily on a national TV show and spoke voluntarily to radio  
 2 talk show hosts. The plaintiff was a woman who, for the "personal experience," made a brief  
 3 and unsuccessful appearance as a contestant on a successful prominent national Fox reality-  
 4 television show, *Who Wants to Marry a Millionaire*. (*Id.* At 801-802.) The television show, as  
 5 the Court of Appeal noted, "generated considerable debate within the media on what its advent  
 6 signified about the condition of American society," including concern focused on "the sort of  
 7 person willing to meet and marry a complete stranger on national television in exchange for the  
 8 notoriety and financial rewards associated with the Show and the presumed millionaire lifestyle  
 9 to be furnished by the groom" (*Id.* at pp. 807-808.) The plaintiff at first refused to participate in a  
 10 radio program in which the radio hosts intended to ask her why she wanted to participate in the  
 11 television show. (*Id.* at 802-803.) but she then did talk to the hosts. The hosts of the radio  
 12 program and their producer ridiculed the plaintiff, on the air, for refusing to defend her  
 13 participation in the television show. The Court of Appeal held that, because of the public debate  
 14 generated by *Who Wants to Marry a Millionaire*, the television show and radio program  
 15 concerned an issue of public interest, and that, "[b]y having chosen to participate as a contestant  
 16 in the Show, plaintiff voluntarily subjected herself to inevitable scrutiny and potential ridicule by  
 17 the public and the media" (*Id.* at p. 808.). That is not this case.  
 18

20 **3. DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY  
 21 DECLARATIONS SHOW DEFENDANTS CANNOT MEET THE TEST FOR THE  
 22 APPLICATION OF SLAPP**

23 To apply the anti-SLAPP statute, courts engage in a two-step process. "First, the  
 24 court decides whether the defendant has made a threshold showing that the challenged cause of  
 25 action is one arising from protected activity... If the court finds such a showing has been made,  
 26 it then determines whether the plaintiff has demonstrated a probability of prevailing on the  
 27 claim." (*Taus v. Loftus* (2007) 40 Cal. 4<sup>th</sup> 683, 712. Defendants therefore have the burden to  
 28

1 demonstrate that section 425.16 applies in this case.

2 To do so, they must show that their alleged defamatory statements satisfy the  
 3 public-issue public forum requirement. It does not

4 **DEFENDANTS' MOVING PAPERS AND PLAINTIFF'S REPLY  
 5 DECLARATIONS SHOW PLAINTIFFS SURPASS THE STANDARD FOR  
 6 DEFEATING A SLAPP MOTION**

7 "SLAPP is a vehicle for determining whether a plaintiff, through a showing of  
 8 minimal effort, has stated and substantiated a claim. *Willbanks v. Wolk* 121 Cal App 4<sup>th</sup> 883 17  
 9 Cal Rptr 36 497 (2004)." The plaintiff "must demonstrate that the complaint is both legally  
 10 sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable  
 11 judgment if the evidence submitted by the plaintiff is credited." (*Matson v. Dvorak* (1995) 40  
 12 Cal App 4<sup>th</sup> 539, 548; accord, *Rosenaur v. Scherer* (2001) 88 Cal. App. 4<sup>th</sup> 260 274.) In deciding  
 13 the question of potential merit, the trial court considers the pleadings and evidentiary  
 14 submissions of both the plaintiff and the defendant (§425.16, subd. (b)(2)); though the court does  
 15 not *weigh* the credibility or comparative probative strength of competing evidence, it should  
 16 grant the motion if, as a matter of law, the defendant's evidence supporting the motion defeats  
 17 the plaintiff's attempt to establish evidentiary support for the claim. (*Paul for Council v.  
 18 Hanyecz* (2001) 85 Cal. App. 4<sup>th</sup> 1356, 1365 [disapproved on another point in *Equilon  
 19 Enterprises v. Consumer Cause, Inc.*, *supra*, 29 Cal. 4<sup>th</sup> at p. 68, fn. 5]) "In denying a motion to  
 20 strike on the ground that the plaintiff has established the requisite probability of success,  
 21 therefore, the trial court necessarily concludes that the plaintiff has substantiated a legally tenable  
 22 claim through a facially sufficient evidentiary showing and that the defendant's contrary  
 23 showing, if any, does not defeat the plaintiff's as a matter of law. This determination establishes  
 24 probable cause to bring the claim. . ." (*Wilson v. Parker, Covert & Chidester* (2002) 28 Cal. 4<sup>th</sup>  
 25 811, 821, orig. italics; accord, *Taus v. Loftus* (2007) 40 Cal. 4<sup>th</sup> 683, 713  
 26  
 27  
 28

1       5. THE RECORD SHOWS ACTUAL MALICE AND RECKLESSNESS.

2              Defendants' Moving and reply Papers and Plaintiff has shown Defendants do not  
 3 adhere to any professional standards. *Harte-Hanks Communications v. Connaughton* [(1989)]  
 4 491 U.S. 657, 688.) To prove culpable mental state, the plaintiff may rely on circumstantial  
 5 evidence, including evidence of motive and failure to adhere to professional standards. (*Ibid.*; see  
 6 also *Reader's Digest Assn. v. Superior Court, supra*, 37 Cal. 3d 244, 257-258.)

7              In *Reader's Digest Assn. v. Superior Court, supra*, 37 Cal. 3d at pages 257-258,  
 8 the California Court held:

9              "[A]ctual malice can be proved by circumstantial evidence. '[E]vidence of negligence, of  
 10 motive and of intent may be adduced for the purpose of establishing, by cumulation and  
 11 by appropriate inferences, the fact of a defendant's recklessness or of this knowledge of  
 12 falsity.' (*Goldwater v. Ginzburg* (2d Cir. 1969) 414 F.2d 324, 342; *Widener v. Pacific*  
 13 *Gas & Electric Co.* [(1977)] 75 Cal. App. 3d 415, 434[, disapproved on another point in  
 14 *McCoy v. Hearst Corp.* (1986) 42 Cal. 3d 835, 846, fn. 9].) A failure to investigate [see  
 15 *Widener v. Pacific Gas & Electric Co., supra*, 75 Cal. App. 3d 415, 435], anger and  
 16 hostility toward the plaintiff (*id.*, at p. 436), reliance upon sources known to be unreliable  
 17 (*Curtis Publishing Co. v. Butts* [(1967)] 388 U.S. 130, 156; *Pep v. Newsweek, Inc.*  
 18 (S.B.N.Y. 1983) 553 F. Supp. 1000, 1002), or known to be biased against the plaintiff  
 19 (*Fisher v. Larsen* (1982) 138 Cal.App. 3d 627, 640; *Burns v. McGraw-Hill Broadcasting*  
 20 *Co., Inc.* (Colo. 1983) 659 P. 2d 1351, 1361-1362)-such factors may, in an appropriate  
 21 case, indicate that the publisher himself had serious doubts regarding the truth of his  
 22 publication. [P] We emphasize that such evidence is relevant only to the extent that it  
 23 reflects on the subjective attitude of the publisher. (*St. Amant v. Thompson, supra*, 390  
 24 U.S. 727, 732-733; *Pep v. Newsweek, Inc., supra*, 553 F. Supp. 100, 1003; *Velle*  
 25 *Transcendental Research Ass'n v. Sanders*. *Harte-Hanks Communications v.*  
 26 *Connaughton* [(1989)] 491 U.S. 657, 688.) To prove culpable mental state, the plaintiff  
 27 may rely on circumstantial evidence, including evidence of motive and failure to adhere  
 28 to professional standards.

29              This case brings together, as no case before every element in every case of what  
 30 constitutes malice. I have not seen a website such as the defendants have in this case, and I have  
 31 not seen a reporter such as Perez Hilton. Malice may be inferred solely by the claim that the  
 32 story is fabricated, or is the product of defendant's imagination or is solely based on rumors or  
 33 there are obvious reasons to doubt the story. Defendants' Moving papers show this with clear

1 and convincing evidence.

2 His writing "I [Love] Pussy" over Ronson's picture, by itself is ill will. So, too, is  
 3 his T-shirt episode. Given the fact that Ms. Ronson has never before been accused of using or  
 4 possessing drugs, or setting up and trying to arrange photoshoots of her friend, and the fact that  
 5 she had her own camera, the sites had obvious reasons to doubt the truth of their source if there  
 6 was one. Add to that the Defendants' Moving papers and all the other allegations made in the  
 7 Ronson and Garbus declarations, there is more than enough for summary judgment in plaintiff's  
 8 favor, and for a directed verdict, if those were the motions before the Court. *Readers Digest*  
 9 *Assn v Superior Court* (1984) 37 3d 244, 256, 258.

10 Hilton, of course, according to the Moving papers, then helped spread the story to  
 11 the media throughout the world, including the Australian paper. He spreads his story, goes to  
 12 professional rumor mongers and gossip hounds to spread false and hurtful information with  
 13 impunity. His trial testimony will show how many of his pictures he sent around; how many  
 14 other sites picked up the picture with "I [Love] Pussy" written over Ronson's face.

15 The actual malice continues to this day. As we noted in Court, at the argument  
 16 before the Court, Defendants have stated that unless this suit is dropped, they intend to continue  
 17 the attack on plaintiff. This, of course, is civil and criminal extortion. If Ms. Ronson loses the  
 18 suit for any reason, (if she could prove truth but not malice), faces the possibility of seeing her "loss"  
 19 trumpeted on the Hilton site according to Hilton. Or seeing herself attacked for other  
 20 reasons, all of which could drive her out of business.

21 **6. PLAINTIFFS ARE ENTITLED TO COUNSEL FEES ON THIS MOTION.**

22 In *Computer Express v Lee Jackson* 93 Cal. App. 4<sup>th</sup> 933, 113 Cal. Rptr. 2d 625  
 23 (2001) the Court described the situations where the successful plaintiff can obtain counsel fees.  
 24 "... A defendant making a SLAPP motion and a plaintiff in a civil rights action thus enjoy the  
 25

1 same preference for attorney fees if they are successful Given this similarity in approach  
 2 between Code of Civil Procedure section 425.16, subdivision (c) and United States Code section  
 3 1988, authority under section 1988 is particularly helpful in applying section 425.16, subdivision  
 4 (c).

5 In *Hensley* the United States Supreme Court considered the proper application of  
 6 section 1988 where the plaintiff prevails on some but not all of his or her claims The court  
 7 stated that, [HN24] for purposes of the threshold determination of whether the plaintiff has  
 8 prevailed at all, “ ‘plaintiffs may be considered “prevailing parties” for attorney’s fees purposes  
 9 if they succeed on any significant issue in litigation which achieves some of the benefit the  
 10 parties sought in bringing suit.’ ” (*Hensley, supra* 461 U.S. at p. 433 [103 S. Ct. at p. 1939].)  
 11 However, where the plaintiff in one lawsuit presents “distinctly different claims for relief that are  
 12 based on different facts and legal theories,” he or she cannot recover fees incurred in pursuing an  
 13 unsuccessful claim (*Id.* at pp. 434-435 [103 S. Ct. at p. 1940].) On the other hand, if the  
 14 plaintiff’s successful and unsuccessful claims involve a common core of facts or related legal  
 15 theories, the court should determine “the significance of the overall relief obtained expended on  
 16 the litigation.” (*Id.* at p. 435 [103 S. C. at p. 1940].) “A reduced fee award is appropriate if the  
 17 relief, however significant, is limited in comparison to the scope of the litigation as a whole.”  
 18 (*Id.* at p. 440 [103 S. Ct. at p. 1943].)

22 California courts applying the private attorney general statute, Code of Civil  
 23 Procedure section 1021.5, have adopted the same approach. Thus, in cases under section 1021.5,  
 24 the courts hold that “a party needs not prevail on every claim presented in an action in order to  
 25 be considered a successful party within the meaning of the section. [Citations.]” (*Wallace v.*  
 26 *Consumers Cooperative of Berkley, Inc.* (1985) 170 Cal. App. 3d 836, 846.) Rather, “when a  
 27 plaintiff is successful within the meaning of the section, the fact that he or she has prevailed on

1 some claims but not on others is a factor to be considered in determining the amount of the fee  
2 awarded." (*Id.*, at pp. 846-847, citing Hensley, *supra*, 461 U.S. 424 )

3 **CONCLUSION**

4 Both of Defendants' §425.16 motions should be dismissed or denied.  
5  
6

7 DATED: October 2, 2007

8 Davis & Gilbert LLP

9 By: 

10  
11 Martin Garbus  
12 Attorneys for Plaintiff  
SAMANTHA RONSON

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PROOF OF SERVICE

I am a citizen of the United States, over 18 years of age, not a party to this action  
and employed in the County of Los Angeles, California at The Water Garden, Fourth Floor,  
North Tower, 1620 26th Street, Santa Monica, California 90404-4060

Today I served the attached:

**MEMORANDUM OF POINTS AND AUTHORITIES IN  
OPPOSITION TO THE CAL. CODE §425.16 MOTIONS OF  
MARIO LAVANDEIRA AND JILL ISHKANIAN**

by causing a true and correct copy of the above to be hand delivered in sealed envelope(s) with all fees fully paid, addressed as follows:

Bryan J. Freedman, Esq.  
Freedman & Taitelman, LLP  
1901 Avenue of the Stars  
Suite 500  
Los Angeles, CA 90067-6027

Maurice Wainer, Esq.  
Snipper, Wainer & Markoff  
Penthouse  
270 North Canon Drive  
Beverly Hills, CA 90210

Gregory L. Doll, Esq.  
Doll Amir & Eley LLP  
1888 Century Park East  
Suite 1106  
Los Angeles, CA 90067

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 2, 2007

Donna McGee  
Donna McGee

1 PROOF OF SERVICE ON ATTORNEY'S OFFICE  
2 BY PERSONAL DELIVERY  
3 (CCP 1011)

I am over 18 years of age, and not a party to this action  
On October 2, 2007, I personally delivered a copy(ies) of the following  
document(s):

5 MEMORANDUM OF POINTS AND AUTHORITIES IN  
6 OPPOSITION TO THE CAL. CODE §425.16 MOTIONS OF  
7 MARIO LAVANDEIRA AND JILL ISHKANIAN

I served a copy(ies) of the document(s) in an envelope(s) by leaving the  
envelope(s) clearly labeled to identify the attorney being served:

- I left the document(s) with a receptionist or with a person having charge of  
the office.
- There was no person in the office with whom the document(s) could be left.  
I left the document(s) between nine in the morning and five in the afternoon  
in a conspicuous place in the office.

The name(s) and address(es) of the person(s) served as shown on the envelope(s) was/were:

Bryan J. Freedman, Esq.  
Freedman & Taitelman, LLP  
1901 Avenue of the Stars  
Suite 500  
Los Angeles, CA 90067-6027

Maurice Wainer, Esq.  
Snipper, Wainer & Markoff  
Penthouse  
270 North Canon Drive  
Beverly Hills, CA 90210

Gregory L. Doll, Esq.  
Doll Amir & Eley LLP  
1888 Century Park East  
Suite 1106  
Los Angeles, CA 90067

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct and that this declaration was executed on October 2, 2007.

**Exhibit I**

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 10/10/07

DEPT. 42

HONORABLE ELIHU M. BERLE

JUDGE N DIGIAMBATTISTA

DEPUTY CLERK

HONORABLE

12

C ELLIS/C.A.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

L NISHIMOTO

Reporter

8:30 am	BC374174 SAMANTHA RONSON VS SUNSET PHOTO AND NEWS LLC ET AL 170.6-SOHIGIAN/DEFT	Plaintiff Counsel Defendant Counsel	MARTIN GARBUS (X) D. WAYNE JEFFRIES (X)  BRYAN J. FREEDMAN (X) JACQUELINE C. BROWN (X) NANCY Y. MARKOFF (X)
---------	---	--	--

## NATURE OF PROCEEDINGS:

SPECIAL MOTION OF DEFENDANTS, SUNSET PHOTO AND NEWS LLC. AND JILL ISHKANIAN, TO STRIKE PLAINTIFF'S COMPLAINT;

MOTION OF DEFENDANT, MARIO LAVANDEIRA, TO STRIKE THE COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 425.16 (C/F 9/26/07)

Matters come on for hearing.

Counsel advise the court that the plaintiff has settled with defendants Sunset Photo and Ishkanian. Accordingly, the motion to strike is ordered off calendar without prejudice to its being reset if the settlement isn't finalized. In addition, the demurrer of defendants Sunset and Ishkanian set for October 16, 2007, is advanced to this date and ordered off calendar without prejudice to its being reset if the settlement is not finalized.

Plaintiff's request to take discovery on the motion of defendant Lavandeira is made and granted. The deposition of Lavandeira is to take place by October 19, 2007, and is limited to the issue of malice. Plaintiff's additional opposition is to be filed by October 24, 2007, and defendant's additional reply is to be filed by October 9, 2007.

Defendant's oral request for a stay is made and de-

Page 1 of 2 DEPT. 42

MINUTES ENTERED 10/10/07 COUNTY CLERK
---

10/10/07  
10/10/07  
10/10/07

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 10/10/07

DEPT. 42

HONORABLE ELIHU M. BERLE

JUDGE

N DIGIAMBATTISTA

DEPUTY CLERK

HONORABLE

12A

C ELLIS/C.A.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

L NISHIMOTO

Reporter

8:30 am	BC374174 SAMANTHA RONSON VS SUNSET PHOTO AND NEWS LLC ET AL 170.6-SOHIGIAN/DEFT	Plaintiff Counsel Defendant Counsel	MARTIN GARBUS (X) D. WAYNE JEFFRIES (X)  BRYAN J. FREEDMAN (X) JACQUELINE C. BROWN (X) NANCY Y. MARKOFF (X)
---------	---	--	--

**NATURE OF PROCEEDINGS:**

nied.

Defendant Lavandeira's motion to strike is continued to November 1, 2007, at 8:30 a.m. in Department 42.

Mr. Garbus' motion to appear pro hac vice is scheduled for November 1, 2007, at 8:30 a.m. in Department 42. Any opposition is to be filed by October 25, 2007.

Notice is waived.

Page 2 of 2 DEPT. 42

MINUTES ENTERED 10/10/07 COUNTY CLERK
---

**Exhibit J**

---

**From:** Garbus, Martin [MGARBUS@dglaw.com]  
**Sent:** Thursday, October 11, 2007 1:37 PM  
**To:** samantharonson@mac.com; Tom Reed  
**Importance:** High

Dear Tom and Samantha:

You simply have to tell me what to do.

Not having heard from you, Samantha, I presume you are NOT going to be here at 2:00. Now we're in the middle of a lawsuit and decisions have to be made, and where the person representing you does not really have the authority to make decisions.

It can only hurt you. Tom said you had some questions about the bill. I suggested that he pay that portion of the bill where there are no questions, and that we discuss the open issues immediately.

Marty

---

IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. For more information please click on the following link: <http://www.dglaw.com/circular/>

This message contains confidential information and is intended only for samantharonson@mac.com, treed@afsg-la.com. If you are not samantharonson@mac.com, treed@afsg-la.com you should not disseminate, distribute or copy this e-mail. Please notify MGARBUS@dglaw.com immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If verification is required please request a hard-copy version.

**Exhibit K**

---

**From:** Garbus, Martin [MGARBUS@dglaw.com]  
**Sent:** Friday, October 12, 2007 5:54 PM  
**To:** Tom Reed  
**Subject:** Re:

She said she would call you thursday  
Absent substantial payment and a plan I Will not continue to run up fees and represent her

----- Original Message -----

From: Tom Reed <treed@afsg-la.com>  
To: Garbus, Martin  
Cc: samanthonson@mac.com <samanthonson@mac.com>  
Sent: Fri Oct 12 20:45:45 2007  
Subject: RE:

Marty,

As I said we do not have the funds available yet. I will come up with a plan as soon as I speak with Samantha. She has been unavailable so far.

Tom

The Affiliated Group  
4764 Park Granada Boulevard, Suite 107  
Calabasas, CA 91302

Telephone 818-225-9960/310-385-1199  
Facsimile 818-225-9963/310-385-7799

[www.afsgweb.com](http://www.afsgweb.com)

Circular 230 Disclosure

Pursuant to recently-enacted U.S. Treasury Department Regulations, We are required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written by Affiliated Financial Service Group to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

**Confidentiality Statement**

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**Exhibit L**

**From:** Garbus, Martin  
**Sent:** Friday, October 12, 2007 11:06 AM  
**To:** 'Tom Reed (treed@afsg-la.com)'; 'samantharonson@mac.com'  
**Subject:** Samantha's bills  
**Attachments:** Samantha Ronson Bills PDF

Dear Tom:

I am attaching copies of Samantha's three bills, dated July 18, 2007, August 20, 2007 and October 8, 2007. I am also sending our firm's wire transfer instructions for payment.

Since I now understand that Samantha doesn't yet have a new attorney, I will continue to represent her until she does have a new attorney. Meanwhile, as I told Mr. Grodsky, I will send him the relevant papers on Monday.

Best,

Marty

DAVIS & GILBERT LLP DEPOSIT ACCOUNT

Account # 665057933

City National Bank

400 Park Avenue, 21st Floor

New York, NY 10022

ABA Number: 0260 1395 8

City National Swift Code: CINAUS6L

**DAVIS & GILBERT LLP**  
**1740 BROADWAY**  
**NEW YORK, N.Y. 10019**  
**(212) 468-4800**

EIN # 13-1504385

Samantha Ronson  
5210 North Rossmore Avenue  
Apt 102  
Los Angeles, CA 90004

July 18, 2007

Bill Number 175041  
File Number 022736

**FOR PROFESSIONAL SERVICES RENDERED**  
Through June 30, 2007

**Libel Action**

File Number 022736-0001-000

06/06/07	MG	Read materials; meet Samantha in California; read cases on website jurisdiction.	3.00 Hrs
06/12/07	SC	Research Services: Research and retrieval of ownership of numerous celebrity gossip web sites - for Marty Garbus	1.50 Hrs
06/13/07	JL	Factual research / reviewing press materials	0.30 Hrs
06/14/07	JL	Call with partner; reviewing website materials	0.10 Hrs
06/18/07	JL	Factual and legal research re: possible defamation claims; identifying possible defendants; facts of case; nature of publication; researching California defamation law; researching appropriate California court; drafting complaint.	7.60 Hrs
06/19/07	JL	Drafting complaint; meeting with partner re: facts and identifying defendants; email correspondence with partner and client; factual research	4.80 Hrs
06/20/07	SC	Research Services: Research and retrieval of copy of complaint and service of process in case entitled, Splash News & Picture Agency Inc et al v. Lavandeira et al - C.D. California, case no. 07-cv-02668 - For James Levine; Contact: Research Services: Research and retrieval	1.50 Hrs
06/20/07	JL	Factual research, correspondence with library; revising and reviewing complaint	0.50 Hrs
06/21/07	SC	Research Services: Research and retrieval of address for Mario Lavandeira - For James Levine	1.00 Hrs

**DAVIS & GILBERT LLP**

06/21/07	JL	Drafting, proofing, revising and circulating complaint; call with partner; legal research re: defamation and personal jurisdiction / NY Long Arm Statute; factual research re locations/addresses of defendants for naming in complaint and service of process; correspondence with library re: factual research.	4.60 Hrs
06/25/07	JL	Incorporating partner's comments to draft complaint; proofing, revising complaint; reviewing press reports	0.80 Hrs
06/26/07	JL	Meeting with partner; incorporating partner's comments to revised complaint; finalizing complaint; reformatting complaint with local counsel information; research; collecting information for local counsel re: service of defendants; reviewing complaint	2.50 Hrs
06/28/07	JL	Factual research for cease and desist letters to websites; drafting and circulating draft cease and desist letter with cover email	1.10 Hrs
06/29/07	MG	Letter.	0.50 Hrs

**SUBTOTAL LEGAL SERVICES \$12,528.00**

**LEGAL SERVICES SUMMARY**

Levine, James	22.30 Hrs	\$9,143.00
Garbus, Martin	3.50 Hrs	\$2,625.00
Cohen, Steven	4.00 Hrs	\$760.00
	<hr/> 29.80 Hrs	<hr/> \$12,528.00

**OTHER CHARGES**

Through June 30, 2007

Duplicating	\$44.30
Lexis/Westlaw/Saegis	\$1,373.89
Long Distance Telephone	\$1.82

**SUBTOTAL OTHER CHARGES \$1,420.01**

**MATTER TOTAL \$13,948.01**

**DAVIS & GILBERT LLP**

**TOTAL LEGAL SERVICES \$12,528.00**  
**TOTAL OTHER CHARGES \$1,420.01**

**TOTAL THIS BILL \$13,948.01**

**UNALLOCATED CASH: -\$13,948.01**

**CURRENT AMOUNT DUE \$0.00**

**DAVIS & GILBERT LLP**  
**1740 BROADWAY**  
**NEW YORK, N.Y. 10019**  
**(212) 468-4800**

EIN # 13-1504385

Samantha Ronson  
5210 North Rossmore Avenue  
Apt 102  
Los Angeles, CA 90004

August 20, 2007

Bill Number 176467  
File Number 022736

**FOR PROFESSIONAL SERVICES RENDERED**

Through July 31, 2007

**Libel Action**

File Number 022736-0001-000

07/12/07	JL	Call with M. Garbus re: new press reports; factual/internet research re: new press reports; meetings with partner; research re: who/where to direct cease and desist letters; drafting letters to Star Magazine and Daily News seeks retractions; preparing letter to go out – email memo to partner/secretary re: places to which letter should be directed; research re: possible defendants; email correspondence with partner and client re: Star Magazine report	4.30 Hrs
07/13/07	JL	Checking websites / factual research re: recent press reports; email correspondence with client re: recent reports	0.20 Hrs
07/14/07	MG	Dropped off site; spoke to Rupp, Samantha, American Media, Starr.	8.00 Hrs
07/17/07	MG	Letter from AM to Samantha; emails.	3.00 Hrs
07/17/07	JL	Reviewing letter from American Media; reviewing press reports re: lawsuit	0.30 Hrs
07/27/07	MG	Spoke to photographer; got served with pleadings.	1.00 Hrs

**SUBTOTAL LEGAL SERVICES \$10,968.00**

**LEGAL SERVICES SUMMARY**

Levine, James	4.80 Hrs	\$1,968.00
Garbus, Martin	12.00 Hrs	\$9,000.00
	<hr/>	<hr/>
	16.80 Hrs	\$10,968.00

**OTHER CHARGES**

Through July 31, 2007

**DAVIS & GILBERT LLP**

Duplicating  
Lexis/Westlaw/Saegis

\$136.30  
\$177.33

**SUBTOTAL OTHER CHARGES** \$313.63

**MATTER TOTAL** \$11,281.63

**TOTAL LEGAL SERVICES** \$10,968.00  
**TOTAL OTHER CHARGES** \$313.63

**TOTAL THIS BILL** \$11,281.63

**UNALLOCATED CASH:** -\$11,051.99

**CURRENT AMOUNT DUE** \$229.64

**DAVIS & GILBERT LLP**  
**1740 BROADWAY**  
**NEW YORK, N.Y. 10019**  
**(212) 468-4800**

EIN # 13-1504385

Samantha Ronson  
5210 North Rossmore Avenue  
Apt 102  
Los Angeles, CA 90004

October 8, 2007

Bill Number 178108  
File Number 022736

**FOR PROFESSIONAL SERVICES RENDERED**

Through October 8, 2007

**Libel Action**

File Number 022736-0001-000

08/08/07	MG	Emails Samantha.	2.00 Hrs
08/08/07	JL	Reviewing website reports; searching for and circulating to M. Garbus at his request	0.10 Hrs
08/20/07	JL	Call with M. Garbus re: next steps	0.10 Hrs
08/22/07	JL	Reviewing court order and case correspondence; reviewing case docs and taking notes in prep for calls; call with local counsel re: status of case; email to client re: next steps; calculating and calendaring court deadlines per court order; reviewing materials / email from client	1.00 Hrs
08/23/07	RG	Open Docket, docket information.	0.30 Hrs
09/06/07	MG	Work on litigation.	3.50 Hrs
09/07/07	MG	Work on litigation.	4.50 Hrs
09/10/07	MG	Work on litigation.	6.50 Hrs
09/10/07	JL	Reviewing court filings / motions and email correspondence	1.00 Hrs
09/11/07	MG	Work on litigation.	10.00 Hrs
09/12/07	MG	Work on litigation.	7.50 Hrs
09/13/07	MG	Work on litigation.	8.20 Hrs
09/14/07	MG	Spoke to all defendants; worked out retractions.	3.00 Hrs
09/17/07	MG	Spoke to Samantha, Perez Hilton, 2 other defendants; filed papers.	2.00 Hrs
09/20/07	MG	Meeting with Samantha; emails with Bryan Freedman; telephone conversation with Bill Voyatzis.	1.00 Hrs
09/21/07	MG	Discussions with opposing counsel; discussion with Samantha. Meet with Samantha. Spoke to Blair Berk.	4.00 Hrs

**DAVIS & GILBERT LLP**

09/24/07	MG	Prepare papers for argument; telephone call Wainer, Voyatzis. Telephone calls and emails with Bingham McCutchen firm.	11.00 Hrs
09/25/07	MG	Prepare for oral argument; flight to LA; discussions and emails with Voyatzis, Wainer, Jeffries.	12.00 Hrs
09/25/07	RG	Docket information.	0.30 Hrs
09/26/07	MG	Oral argument.	3.00 Hrs
09/27/07	SC	Research Services: Research and retrieval of numerous cases related to Slapp law in CA. Retrieval of CA Civil Code 48a. Retrieval of articles related to Perez Hilton claiming that Fidel Castro is dead - For Martin Garbus	1.00 Hrs
09/27/07	MG	Preparation of motion papers	11.00 Hrs
09/28/07	MG	Preparation of motion papers; emails, phone calls Gina Simas, Wayne.	9.50 Hrs
10/01/07	MG	Work on briefs; emails, telephone conversations with CA counsel.	8.00 Hrs
10/02/07	MG	Trying to work out settlement agreements; finishing affidavits and declarations; filing brief; preparing for October 10 oral argument; discussions with Blair Berk.	6.00 Hrs
10/04/07	MG	Work on papers. Telephone calls re: retraction.	8.00 Hrs
10/05/07	MG	Emails, phone calls Voyatzis, Wainer, Samantha	3.50 Hrs
10/06/07	MG	Telephone calls to Samantha, Maurice Wainer.	1.50 Hrs
10/07/07	MG	Telephone calls.	1.50 Hrs

**SUBTOTAL LEGAL SERVICES \$96,606.00**

**LEGAL SERVICES SUMMARY**

Levine, James	2.20 Hrs	\$902.00
Garbus, Martin	127.20 Hrs	\$95,400.00
Gomez, Richard	0.60 Hrs	\$114.00
Cohen, Steven	1.00 Hrs	\$190.00
	<hr/>	<hr/>
	131.00 Hrs	\$96,606.00

**OTHER CHARGES**

Through October 8, 2007

Out of Town Travel	\$1,267.96
Courier Services	\$174.66
Court Services	\$2.56
Duplicating	\$447.95
Lexis/Westlaw/Saegis	\$577.00
Postage	\$0.41
Long Distance Telephone	\$23.54
Fax	\$139.50

**DAVIS & GILBERT LLP**

Word Processing	\$265.00
<b>SUBTOTAL OTHER CHARGES</b>	<b>\$2,898.58</b>
<b>MATTER TOTAL</b>	<b>\$99,504.58</b>
<b>TOTAL LEGAL SERVICES</b>	<b>\$96,606.00</b>
<b>TOTAL OTHER CHARGES</b>	<b>\$2,898.58</b>
<b>TOTAL THIS BILL</b>	<b><u>\$99,504.58</u></b>

**PREVIOUS BILLS OUTSTANDING**

176467	08/20/07	229.64
		<hr/>
		\$229.64

<b>TOTAL DUE</b>	<b><u>\$99,734.22</u></b>
------------------	---------------------------

**Exhibit M**

---

**From:** Garbus, Martin  
**Sent:** Tuesday, October 16, 2007 8:06 PM  
**To:** "Wayne.Jeffries@bingham.com"  
**Subject:** She is willing to give me a document that says she discharges me

How es one protect a lien on a file to protect fees

Exhibit N

---

**From:** Garbus, Martin [MGARBUS@dglaw.com]  
**Sent:** Wednesday, October 17, 2007 1:38 PM  
**To:** Tom Reed  
**Cc:** samantharonson@mac.com  
**Subject:** FW: Samantha Ronson Statement (Final) and Promissory Note PDF

Dear Tom:

I am today sending you three sets of documents. The first is Samantha's consent to my withdrawal, which was sent to both you and Samantha earlier today. The second is my final bill which, including the outstanding statements, totals \$141,590.55.

The third is a note for five payments of the outstanding bills, starting November 1, 2007, at \$28,318.11 each, allowing Samantha to pay me back that amount (\$141,590.55) over a five month period.

Upon receipt of the executed consent, I will no longer do any further work. The additional monies were incurred since the previous bill was sent out.

Call me if you have any questions.

Best,

Marty

---

**From:** sharescan@dglaw.com [mailto:[sharescan@dglaw.com](mailto:sharescan@dglaw.com)]  
**Sent:** Wednesday, October 17, 2007 4:33 PM  
**To:** Garbus, Martin  
**Subject:** Samantha Ronson Statement (Final) and Promissory Note PDF

---

IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. For more information please click on the following link: <http://www.dglaw.com/circular/>

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**DAVIS & GILBERT LLP**  
**1740 BROADWAY**  
**NEW YORK, N.Y. 10019**  
**(212) 468-4800**

EIN # 13-1504385

Samantha Ronson  
5210 North Rossmore Avenue  
Apt 102  
Los Angeles, CA 90004

October 17, 2007

Bill Number 178727  
File Number 022736

**FOR PROFESSIONAL SERVICES RENDERED**

Through October 17, 2007

**Libel Action**

File Number 022736-0001-000

10/04/07	LP	Organization of M. Garbus working file.	1.80 Hrs
10/08/07	MG	Preparation for oral argument.	7.50 Hrs
10/09/07	MG	Travel to Los Angeles to appear before Judge Berle; preparation for argument; conversations and emails with Wayne Jeffries (Bingham McCutchen); telephone conversations and emails with defense counsel (Maurice Wainer, Bill Voyatzis) re: settlement with Cel ebrity Babylon.	9.00 Hrs
10/10/07	MG	Oral argument before Judge Berle; conversations and emails with Tom Reed, Samantha; waiting for Samantha at hotel.	5.50 Hrs
10/11/07	MG	Conversations with Allen Grodsky, defense counsel re: settlement, Wayne Jeffries; preparation for deposition of Perez Hilton; preparation of Writ of Certiorari.	3.50 Hrs
10/12/07	MG	Conversations with Allen Grodsky, defense counsel re: settlement, Wayne Jeffries; preparation for deposition of Perez Hilton; preparation of Writ of Certiorari.	3.50 Hrs
10/13/07	MG	Research on malice (factual and legal).	3.00 Hrs
10/14/07	MG	Research on malice (factual and legal); emails Celebrity Babylon counsel.	3.00 Hrs
10/15/07	MG	Filing of pro hac motion. Preparation for EBT of Perez Hilton; emails, phone calls with Tom Reed; discussions with Bingham McCutchen; attempts to get stipulation signed; research on malice (factual and legal).	8.00 Hrs

**DAVIS & GILBERT LLP**

10/15/07	JL	Call with Garbus re: website stories; collecting internet press reports in preparation for deposition; meetings with M. Garbus re: same	2.50 Hrs
10/16/07	MG	Email Blair Berg; read additional cites; letters to Samantha, Reed, Judge Berle, defendant Hilton's counsel; emails Bingham McCutchen re: pro hac motion, California procedure on withdrawal; research on and preparation of motion to withdraw; research on Writ of Certiorari; emails Grodsky.	10.00 Hrs

**SUBTOTAL LEGAL SERVICES \$41,117.00**

**LEGAL SERVICES SUMMARY**

Levine, James	2.50 Hrs	\$1,025.00
Panebianco, Lisa	1.80 Hrs	\$342.00
Garbus, Martin	53.00 Hrs	\$39,750.00
	<hr/> 57.30 Hrs	<hr/> \$41,117.00

**OTHER CHARGES**

Through October 17, 2007

Courier Services	\$14.26
Court Services	\$226.77
Duplicating	\$316.95
Local Travel	\$166.77
Long Distance Telephone	\$4.08
Fax	\$10.50

**SUBTOTAL OTHER CHARGES \$739.33**

**MATTER TOTAL \$41,856.33**

<b>TOTAL LEGAL SERVICES</b>	<b>\$41,117.00</b>
<b>TOTAL OTHER CHARGES</b>	<b>\$739.33</b>

**TOTAL THIS BILL \$41,856.33**

**PREVIOUS BILLS OUTSTANDING**

176467	08/20/07	229.64
178108	10/08/07	<hr/> 99,504.58
		\$99,734.22

**TOTAL DUE \$141,590.55**

**PROMISSORY NOTE**

\$141,590.55

Date: October 17, 2007

Due Date: March 1, 2008

FOR VALUE RECEIVED, the undersigned, SAMANTHA RONSON ("Ronson"), hereby agrees to pay to the order of Davis & Gilbert LLP ("D&G"):

1. Principal; Interest; Payments. Ronson promises to pay to the order of D&G the principal sum of ONE HUNDRED FORTY-ONE THOUSAND FIVE HUNDRED NINETY DOLLARS and 55 CENTS (\$141,590.55) on March 1, 2008, with interest from the date hereof on the unpaid balance of such principal amount at the rate of 6% per annum, payable monthly in arrears. Payments are to be made as follows:

On November 1, 2007, the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED EIGHTEEN DOLLARS and 11 CENTS (\$28,318.11);

On December 1, 2007, the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED EIGHTEEN DOLLARS and 11 CENTS (\$28,318.11);

On January 1, 2008, the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED EIGHTEEN DOLLARS and 11 CENTS (\$28,318.11);

On February 1, 2008, the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED EIGHTEEN DOLLARS and 11 CENTS (\$28,318.11); and

On March 1, 2008, the sum of TWENTY-EIGHT THOUSAND THREE HUNDRED EIGHTEEN DOLLARS and 11 CENTS (\$28,318.11).

There is no prepayment penalty. All payments of principal and interest shall be made in lawful money of the United States at such place as is designated by D&G.

2. Waiver. Presentment or demand for payment, dishonor or notice of dishonor, protest or notice of protest or other formality, are hereby waived.

3. Default Interest; Fees. Any payment not received within 10 days of the date due shall be considered in default. In the event of a default in any payment due under this Note, interest will accrue on such payment from the date of such default to the date of payment at the maximum rate permitted by law. Additionally, D&G shall be entitled to receive any and all fees and costs incurred in connection with any collection action initiated pursuant to this Note, including, but not limited to, the reasonable fees and expenses of counsel.

4. Severability. If one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

5. Choice of Law. In all respects, including all matters of construction, validity and performance, this Note and the obligations hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of New York applicable to contracts made and performed in such state, without regard to the principles thereof regarding conflict of laws.

IN WITNESS WHEREOF, the undersigned has executed this Note as of the date first written above.

---

SAMANTHA RONSON

**Exhibit O**

**From:** Garbus, Martin [MGARBUS@dglaw.com]  
**Sent:** Thursday, October 18, 2007 12:46 PM  
**To:** samanthaloronson@mac.com  
**Cc:** Tom Reed  
**Subject:** Declaration of Martin Garbus

Dear Samantha and Tom:

I do not want to file this declaration. Please call me.

Thank you.

Marty

IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. For more information please click on the following link: <http://www.dglaw.com/circular/>

This message contains confidential information and is intended only for samanthaloronson@mac.com, treed@afsg-la.com. If you are not samanthaloronson@mac.com, treed@afsg-la.com you should not disseminate, distribute or copy this e-mail. Please notify MGARBUS@dglaw.com immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If verification is required please request a hard-copy version.

1 Bingham McCutchen LLP  
 2 BRUCE A. FRIEDMAN (SBN 65852)  
 3 The Water Garden  
 4 Fourth Floor, North Tower  
 5 1620 26th Street  
 6 Santa Monica, CA 90404-4060  
 7 Telephone: 310.907.1000  
 8 Email: bruce.friedman@bingham.com

9  
 10 Davis & Gilbert LLP  
 11 MARTIN GARBUS  
 12 JAMES R. LEVINE  
 13 1740 Broadway  
 14 New York, NY 10019  
 15 Telephone: (212) 468-4800  
 16 Facsimile: (212) 468-4888  
 17 Email: mgarbus@dglaw.com  
 18 jlevine@dglaw.com

19 Attorneys for Plaintiff  
 20 SAMANTHA RONSON

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA

22 COUNTY OF LOS ANGELES

23 SAMANTHA RONSON,

24 No. BC 374174

25 Plaintiff,

26 HON. ELIHU M. BERLE

27 v.

28 SUNSET PHOTO AND NEWS, LLC; JILL  
 1 ISHKANIAN, MARIO LAVANDEIRA doing  
 2 business as PEREZ HILTON, and DOES 1-10,  
 3 inclusive,  
 4  
 5 Defendants.

**DECLARATION OF MARTIN GARBUS  
 IN SUPPORT OF ATTORNEY'S  
 MOTION TO BE RELIEVED AS  
 COUNSEL**

6 Action Filed: July 17, 2007

7 Date:  
 8 Time:  
 9 Dept: 42

10 I, MARTIN GARBUS, do hereby certify and declare:

11 1. I know the facts herein of my personal knowledge and if called as a  
 12 witness could and would testify personally thereto. My firm, DAVIS & GILBERT LLP, and  
 13 BINGHAM MCCUTCHEN LLP, are presently counsel of record for Samantha Ronson, the

1 plaintiff in the above-captioned proceeding.

2  
3       2. I make this motion on behalf of myself, my firm and Bingham McCutchen  
4 to be relieved and to withdraw as counsel in the above proceeding under Cal. Code of Civil  
5 Procedure § 284(2) instead of filing a consent under § 284(1) because this firm, and the firm of  
6 Bingham McCutchen, LLP, have been discharged, client has been sent the consent form and has  
7 not yet returned it.

8  
9       3. On October 16, 2007, I sent this Court and counsel for defendant Mario  
10 Lavandeira letters indicating I would be filing an application to withdraw as counsel. Copies of  
11 those letters are attached to this Declaration as Exhibit A. I also advised Mr. Lavandeira's  
12 lawyer of that over the telephone the following day. The case against defendants Sunset Photo  
13 and News LLC and Jill Ishkanian has been settled by stipulation.

14  
15       4. Prior to that time, on October 5, 2007, Ms. Ronson advised me that she  
16 was seeking other counsel and that we were discharged. She requested I represent her an  
17 additional time because of the October 10, 2007, hearing and so she could see other counsel. I  
18 agreed. She said she expected to have new counsel by October 12, 2007. At her request, I spoke  
19 to other counsel last week and forwarded one foot of documents to them this Monday, as well as  
20 an email of the last hearing before the Court. I also advised them the entire file was available in  
21 the Courthouse. As of October 18, 2007, Ms. Ronson had not retained new counsel.

22  
23       5. I have not heard from Ms. Ronson nor potential new counsel that she now  
24 has representation. The potential new lawyer has advised me on October 17, 2007 that he will  
25 not have reviewed the file until the weekend of October 21, 2007. I have sent her and her  
26 representative, Tom Reed, numerous emails, left numerous phone messages advising her that I  
27  
28

wold file a motion to withdraw if I did not receive the appropriate consent forms, which I sent her. Ms. Ronson did not appear for two appointments with me and did not participate in a telephone appointment set up by her representative.

6. Within the last thirty days, I have served the client (and her representative, Tom Reed) by electronic mail and by facsimile with copies of the motion papers filed. Papers that were sent to her previously by Federal Express have been returned to my office unopened, and Ronson has not responded in a timely manner to my repeated telephone calls to her.

7. The next hearing scheduled in this action is set for November 1, 2007. It is a continued hearing on defendant Mario Lavandeira's SLAPP motion to dismiss the complaint.

8. Prior to that time, the deposition of defendant Mario Lavandeira had been set for Friday, October 19, 2007. After the depositions, there was a briefing schedule to culminate in the November 1, 2007, hearing.

9. Mr. Reed, Ms. Ronson's business manager, advised me during our conversations that Ms. Ronson did not have the funds to pay counsel.

10. The trial in this action is not yet set.

I declare under the penalty of perjury under the laws of the State of California that  
the foregoing is true and correct

Dated: October       , 2007  
New York, New York

MARTIN GARBUS

**Exhibit P**

---

**From:** Garbus, Martin [MGARBUS@dglaw.com]  
**Sent:** Thursday, October 18, 2007 1:17 PM  
**To:** Tom Reed  
**Cc:** SamanthaRonson@mac.com  
**Subject:** RE:

No  
Not to finish  
To get through the month

The affidavit I sent you will get picked up on the blogs Avoid it.

---

**From:** Tom Reed [mailto:[treed@afsg-la.com](mailto:treed@afsg-la.com)]  
**Sent:** Thursday, October 18, 2007 4:14 PM  
**To:** Garbus, Martin  
**Cc:** [samantharonson@mac.com](mailto:samantharonson@mac.com)  
**Subject:** RE:

Thanks for the info. Actually you said it would be \$75K to finish up the case. I don't remember \$25K per week.  
You will have your signed consent very soon.

**The Affiliated Group**  
4764 Park Granada Boulevard, Suite 107  
Calabasas, CA 91302

Telephone 818-225-9960/310-385-1199  
Facsimile 818-225-9963/310-385-7799

[www.afsqweb.com](http://www.afsqweb.com)

Circular 230 Disclosure

Pursuant to recently-enacted U.S. Treasury Department Regulations, We are required to advise you that unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written by Affiliated Financial Service Group to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

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---

**From:** Garbus, Martin [mailto:[MGARBUS@dglaw.com](mailto:MGARBUS@dglaw.com)]  
**Sent:** Thursday, October 18, 2007 1:05 PM  
**To:** Tom Reed  
**Cc:** [samantharonson@mac.com](mailto:samantharonson@mac.com)

**Subject:**

Tom, the faster you get me the consent, the faster the fees stop. The litigation was, up until recently, ongoing. I told both Samantha and you that the costs for this month until we stopped the litigation would be about \$25,000 per week. The mere fact that no one responded does not mean that one can walk away from the case. A lawyer can't. You can't prejudice a client by not doing certain things.

Again, I strongly suggest you and Samantha resolve all the open issues as quickly as possible.

I do not know what Mr. Grodsky will do but I do doubt that he will take it on a contingency basis. I may be wrong, but I think Samantha should have a back-up.

**IRS Circular 230 Disclosure:**

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. For more information please click on the following link: <http://www.dglaw.com/circular/>

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**Exhibit Q**

---

**From:** Garbus, Martin [MGARBUS@dglaw.com]

**Sent:** Thursday, October 18, 2007 1:05 PM

**To:** Tom Reed

**Cc:** samanthonson@mac.com

Tom, the faster you get me the consent, the faster the fees stop. The litigation was, up until recently, ongoing. I told both Samantha and you that the costs for this month until we stopped the litigation would be about \$25,000 per week. The mere fact that no one responded does not mean that one can walk away from the case. A lawyer can't. You can't prejudice a client by not doing certain things.

Again, I strongly suggest you and Samantha resolve all the open issues as quickly as possible.

I do not know what Mr. Grodsky will do but I do doubt that he will take it on a contingency basis. I may be wrong, but I think Samantha should have a back-up.

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**Exhibit R**

**From:** Garbus, Martin  
**Sent:** Tuesday, October 23, 2007 9:48 AM  
**To:** 'Tom Reed (treed@afsg-la.com)'; 'samantharonson@mac.com'  
**Subject:** FW: Draft Summons and Verified Complaint.PDF  
**Attachments:** Draft Summons and Verified Complaint.PDF

Dear Tom and Samantha:

Unless I hear from you by Wednesday on the bills, I shall file a suit in New York for the payment of the legal bills. A copy of the draft Summons and Verified Complaint is attached.

Please don't force me to do it. The blogs will pick it up.

Marty

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

DAVIS & GILBERT LLP,

Plaintiff,

-against-

SAMANTHA RONSON,

Defendant.

Index No. \_\_\_\_\_

Date of Filing: October \_\_\_, 2007

**SUMMONS**

Plaintiffs designate New York County, as the place of trial based upon CPLR 503 (a).

**TO THE ABOVE-NAMED DEFENDANT: SAMANTHA RONSON**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on plaintiffs' attorneys within 20 days after service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York  
October \_\_\_, 2007

DAVIS & GILBERT LLP

By: \_\_\_\_\_

Martin Garbus  
1740 Broadway  
New York, New York 10019  
(212) 468-4800

Address:

Samantha Ronson  
5210 North Rossmore Avenue  
Apt. 102  
Los Angeles, CA 90004

SUPREME COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

DAVIS & GILBERT LLP,

Plaintiff,

-against-

SAMANTHA RONSON,

Defendant.

D R A F T

Index No. \_\_\_\_\_

VERIFIED COMPLAINT

Davis & Gilbert LLP, as attorneys pro se, for its Verified Complaint against defendant hereby alleges as follows:

**AS AND FOR A FIRST CAUSE OF ACTION**

**(Breach of Contract)**

1. Plaintiff Davis & Gilbert LLP ("D&G" or "Plaintiff") is a New York limited liability partnership which engages in the practice of law with its principal place of business in New York City.

2. Upon information and belief, defendant Samantha Ronson ("Ronson") is an individual residing in the State of California, City of Los Angeles, with an address at 5210 North Rossmore Avenue, Apt 102, Los Angeles, CA 90004.

3. Upon information and belief, Ronson transacts or has transacted business in the State of New York, and Plaintiff's claims arise from said transaction of business.

4. Venue is proper pursuant to CPLR § 503 because plaintiff's principle place of business is in New York, and because the acts giving rise to the causes of action in this complaint occurred within New York County.

5. By letter dated June 8, 2007, and agreed to on June 19, 2007, Ronson retained D&G as legal counsel to represent Ronson in connection with lawsuits to be filed against websites which defamed Ronson

6. The services rendered by D&G and by Bingham McCutchen LLP ("Bingham"), California counsel retained by D&G, were duly accepted by Ronson.

7. Statements for the services rendered by D&G and by Bingham for Ronson and costs incurred by D&G and by Bingham on behalf of Ronson presently outstanding, total for Bingham \$22,985.12 and for D&G \$141,590.55, for a total of \$164,575.67.

8. Despite demands, Ronson has failed to pay D&G and Bingham.

9. D&G and Bingham have performed all services required by them on behalf of Ronson.

10. One of the defendants, Celebrity Babylon, sued in a libel case, by Plaintiffs, on behalf of Ronson, issued a retraction, agreed to feature that retraction on its website and agreed to have that retraction on Ronson's website. Celebrity Babylon also agreed to remove any references on its website to any allegations that Ronson ever used drugs. The other defendant, Mario Lavandeira, was to be deposed at the time that Plaintiffs were discharged

11. Defendant, after stating she intended to pay for the services rendered, claimed she was unable to pay the legal fees. She failed to return calls, missed

appointments, and otherwise acted in an unprofessional manner, making the presentation of the case, and the settlement with Celebrity Babylon, exceedingly difficult. Defendant then discharged Plaintiffs to seek a contingency lawyer.

12. There is, at present, due to D&G from Ronson the sum of \$164,575.67.

**AS AND FOR A SECOND CAUSE OF ACTION**

**(Unjust Enrichment)**

13. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 12 of the Complaint as if set forth fully herein.

14. D&G and Bingham rendered services for, and incurred expenses on behalf of, Ronson.

15. Ronson knew such services were being performed and such expenses were being incurred by D&G and Bingham with the expectation of payment, and Ronson acquiesced to said services being performed and said expenses being incurred, and accepted the same and received the benefits therefrom.

16. Said services rendered by D&G and by Bingham, and expenses incurred by D&G and Bingham, on behalf of Ronson are reasonably worth the sum of \$164,575.67.

17. There is at present due and owing to D&G from Ronson the sum of \$164,575.67.

**AS AND FOR A THIRD CAUSE OF ACTION**

**(Statement of Account)**

18. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 17 of the Complaint as if set forth fully herein.

19. Plaintiff submitted a statement of account to Ronson for D&G for the period beginning June 6, 2007 and ending October 16, 2007, totaling \$141,590.55. beyond the original retainer.

20. Plaintiff submitted a statement of account to Ronson for Bingham's services for the period September 4, 2007 and ending September 30, 2007, totaling \$22,985.12.

21. Ronson accepted Plaintiff's statement of account, saying she would work out a payout but has failed to do so.

22. There is presently due from Ronson to Plaintiffs the sum of \$164,575.67, plus interest from October 16, 2007.

WHEREFORE, Plaintiff demands judgment against Ronson as follows:

- (a) On the First Cause of Action, the sum of \$164,575.67, plus interest from October 16, 2007;
- (b) On the Second Cause of Action, the sum of \$164,575.67, plus interest from October 16, 2007;
- (c) On the Third Cause of Action, the sum of \$164,575.67, plus interest from October 16, 2007;
- (d) The costs and disbursements of this action; and

(e) Such other and further relief as the Court deems necessary and proper.

Dated: New York, New York  
October \_\_\_, 2007

DAVIS & GILBERT LLP

By: \_\_\_\_\_

Martin Garbus  
Attorneys Pro Se  
1740 Broadway  
New York, New York 10019  
(212) 468-4800

VERIFICATION

COUNTY OF NEW YORK                         )  
   )  
STATE OF NEW YORK                             )  
   ss:

\_\_\_\_\_, being duly sworn, deposes and says:

I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. This verification is made by me because I am a member of the firm of Davis & Gilbert LLP, the Plaintiff in the above-captioned matter, and am familiar with the facts therein.

\_\_\_\_\_  
\_\_\_\_\_  
Subscribed and sworn to before me  
this \_\_\_\_\_ day of October 2007

**Exhibit S**

DAVIS & GILBERT LLP  
1740 BROADWAY  
NEW YORK, NEW YORK 10019  
(212) 468-4800

DIRECT DIAL NUMBER  
(212) 468-4883  
EMAIL ADDRESS  
MGARBUS@DGLAW.COM

MAIN FACSIMILE  
(212) 468-4888  
PERSONAL FACSIMILE  
(212) 821-0938

October 16, 2007

**BY FACSIMILE: (310) 201-0045**

Bryan J. Freedman, Esq.  
Freedman & Taitelman, LLP  
1901 Avenue of the Stars, Suite 500  
Los Angeles, CA 90067

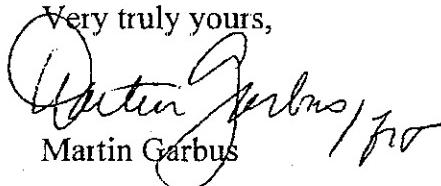
Re: *Samantha Ronson v Sunset Photo and News, et al.*

Dear Mr. Freedman:

My firm and Bingham McCutchen have been discharged by Samantha Ronson. We no longer represent her in the suit against your client, Mario Lavandeira. Accordingly, we have no authorization to take any actions on her behalf.

We shall advise the Court of that today. The attorney that will represent her will contact you concerning the future scheduling of the deposition of Mario Lavandeira and will discuss with you the scheduling of briefs.

She has not yet chosen that attorney but it is clear that she will not have an attorney capable of taking the October 19<sup>th</sup> deposition and will require that that deposition be taken at a later date.

Very truly yours,  
  
Martin Garbus

MG:frt

Cc: D. Wayne Jeffries, Esq. (By Facsimile)

**Exhibit T**

DAVIS & GILBERT LLP  
1740 BROADWAY  
NEW YORK, NEW YORK 10019  
(212) 468-4800

DIRECT DIAL NUMBER  
(212) 468-4888  
EMAIL ADDRESS  
[MGARBUS@DGLAW.COM](mailto:MGARBUS@DGLAW.COM)

MAIN FACSIMILE  
(212) 468-4888  
PERSONAL FACSIMILE  
(212) 621-0636

October 16, 2007

**BY HAND**

Hon. Elihu M. Berle  
Superior Court, Los Angeles County  
111 N. Hill Street, Room 105-E  
Los Angeles, CA 90012-3117

Re: *Samantha Ronson v. Sunset Photo and News, et al.*  
No. BC 374174 (Action Filed July 17, 2007)

Honorable Sir:

Samantha Ronson is now seeking other counsel to represent her in her suit against Perez Hilton. My firm and the Bingham McCutchen firm have been discharged. Accordingly, we have no authority to represent her.

I have advised Mr. Freedman, who represents Perez Hilton, of that fact and have enclosed a copy of the letter sent him earlier today.

The Court will recall that the deposition of Mr. Hilton was set for October 19, 2007 and the Court then set a briefing schedule with an argument to be held on November 1, 2007. Given the fact that Ms. Ronson has not yet chosen her new counsel, I advised Mr. Freedman that he would have to wait to hear from her for the scheduling of a new deposition date.

We shall move promptly for an Order permitting us to withdraw from the Ronson v. Hilton case.

DAVIS & GILBERT LLP

Hon. Elihu M. Berle  
October 16, 2007  
Page 2

Meanwhile, the case brought by Ms. Ronson against Celebrity Babylon has been settled and the Court file will reflect that.

Respectfully submitted,



Martin Garbus

MG:frt  
Enclosure  
Cc: Bryan J. Freedman, Esq.  
D. Wayne Jeffries, Esq.

**Exhibit U**

**Tourin, Fredda**

---

**From:** Jeffries, D. Wayne [Wayne.Jeffries@bingham.com]  
**Sent:** Tuesday, October 16, 2007 9:19 AM  
**To:** Garbus, Martin; Friedman, Bruce A  
**Cc:** Pippo, Dale; McGee, Donna  
**Subject:** RE: Ronson

In the office. Call me. Some judges do not except writings, other than filed documents. We need to move to withdraw from the case or have signed substitution. Writing to the judge will likely not help wj

-----Original Message-----

From: Garbus, Martin [mailto:MGARBUS@dglaw.com]  
Sent: Tuesday, October 16, 2007 2:31 AM  
To: Jeffries, D. Wayne; Friedman, Bruce A  
Subject: Re: Ronson

Can you call me before your day starts

I want to write today to judge and tell him we have been discharged and no longer have authority to speak or act on behalf of Ronson

----- Original Message -----

From: Jeffries, D. Wayne <Wayne.Jeffries@bingham.com>  
To: Garbus, Martin; Friedman, Bruce A. <Bruce.Friedman@bingham.com>  
Sent: Mon Oct 15 18:35:33 2007  
Subject: Re: Ronson

No. In depo.

-----Original Message-----

From: Garbus, Martin  
To: Jeffries, D. Wayne  
Sent: Mon Oct 15 15:33:49 2007  
Subject: Re: Ronson

Can you call me

9176580524

----- Original Message -----

From: Jeffries, D. Wayne <Wayne.Jeffries@bingham.com>  
To: Garbus, Martin; Friedman, Bruce A. <Bruce.Friedman@bingham.com>  
Cc: Pippo, Dale <Dale.Pippo@bingham.com>; McGee, Donna <Donna.McGee@bingham.com>  
Sent: Mon Oct 15 18:18:48 2007  
Subject: Ronson

Got your voicemail. Very unlikely court will move dates. It would require ex parte app and he said he denies opposed ex parte apps and they will oppose it. You are going to have to take the depo on friday unless freedman agrees to move it. We cannot do ex parte app here.

=====

=====  
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=====

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Exhibit V

**From:** Jeffries, D. Wayne [Wayne.Jeffries@bingham.com]  
**Sent:** Wednesday, October 24, 2007 7:02 AM  
**To:** Garbus, Martin  
**Cc:** Friedman, Bruce A.; McGee, Donna; Pippo, Dale  
**Subject:** RE:

I have not reviewed them closely. The consent I recall seeing last week was not signed, but was with a correspondence to her business manager. Someone has to represent her in the case. She substitutes counsel for us or agrees to proceed with the case in pro per. She cannot just consent to our withdrawal and have that be it, as I understand how it works. So, since she is not substituting counsel, I think you still need a motion, as we previously communicated, with the supporting documents I said that you needed, with Bruce's approval. You need to communicate with Bruce and me on this. Wayne

**From:** Garbus, Martin [mailto:[MGARBUS@dglaw.com](mailto:MGARBUS@dglaw.com)]  
**Sent:** Wednesday, October 24, 2007 6:46 AM  
**To:** Jeffries, D. Wayne  
**Subject:**

Wayne, you now have the consent and the order. Are they satisfactory?

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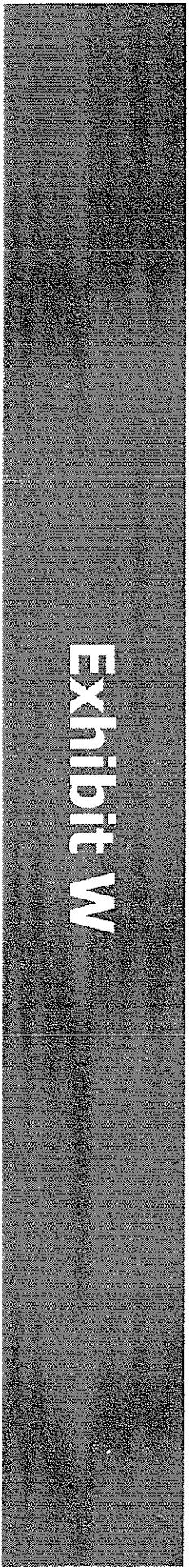
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**Exhibit W**



---

From: Garbus, Martin  
Sent: Wednesday, October 24, 2007 7:36 AM  
To: 'treed@afsg-la.com'; 'SamanthaRonson@mac.com'  
Subject: Do you have a new lawyer

If not samantha must appear on her own behalf

**Exhibit X**

---

From: samantharonson@mac.com  
Sent: Wednesday, October 24, 2007 7:44 AM  
To: Garbus, Martin; Tom Reed  
Subject: Re: Do you have a new lawyer

I'm tired of all this shit. I wanna drop it.  
Sent via BlackBerry by AT&T

-----Original Message-----

From: "Garbus, Martin" <MGARBUS@dglaw.com>  
  
Date: Wed, 24 Oct 2007 10:35:44  
To: treed@afsg-la.com, samantharonson@mac.com  
Subject: Do you have a new lawyer

If not samantha must appear on her own behalf

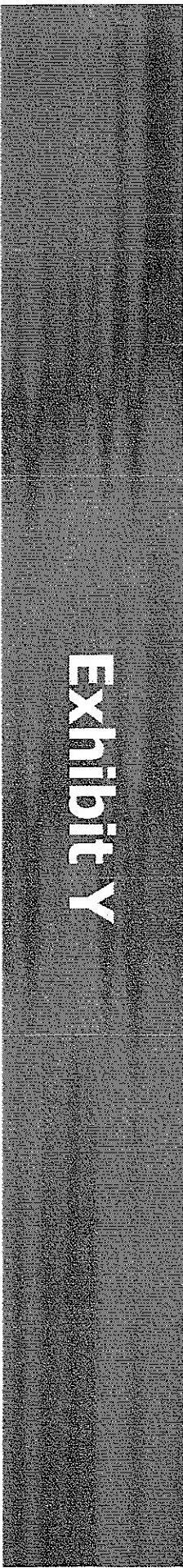
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Exhibit Y



---

**From:** Garbus, Martin  
**Sent:** Wednesday, October 24, 2007 8:04 AM  
**To:** 'samantharonson@mac.com'  
**Subject:** RE: Do you have a new lawyer

Will I be getting paid

-----Original Message-----

From: samantharonson@mac.com [mailto:samantharonson@mac.com]  
Sent: Wednesday, October 24, 2007 10:44 AM  
To: Garbus, Martin; Tom Reed  
Subject: Re: Do you have a new lawyer

I'm tired of all this shit. I wanna drop it.  
Sent via BlackBerry by AT&T

-----Original Message-----

From: "Garbus, Martin" <MGARBUS@dglaw.com>

Date: Wed, 24 Oct 2007 10:35:44  
To:treed@afsg-la.com, samantharonson@mac.com  
Subject: Do you have a new lawyer

If not samantha must appear on her own behalf.

---

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**Exhibit Z**

---

From: Garbus, Martin  
Sent: Wednesday, October 31, 2007 4:27 PM  
To: 'treed@afsg-la.com'  
Subject: If I don't receive payment of substantial funds by friday I shall file the complaint

I recognize you have no control of the situation

**Exhibit AA**

---

**From:** Jeffries, D. Wayne [Wayne Jeffries@bingham.com]  
**Sent:** Monday, October 15, 2007 3:19 PM  
**To:** Garbus, Martin; Friedman, Bruce A  
**Cc:** Pippo, Dale; McGee, Donna  
**Subject:** Ronson

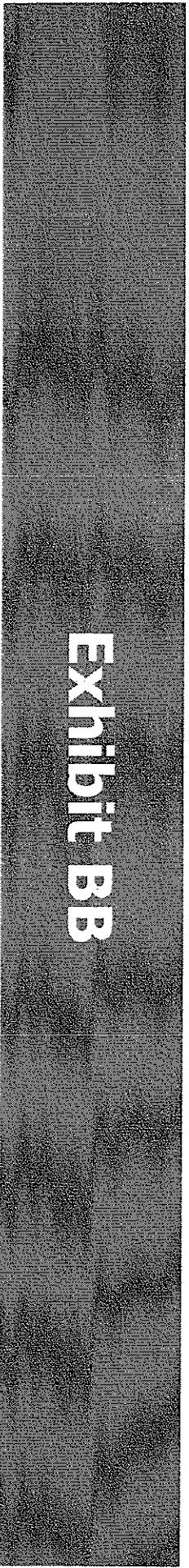
Got your voicemail. Very unlikely court will move dates. It would require ex parte app and he said he denies opposed ex parte apps and they will oppose it. You are going to have to take the depo on friday unless freedman agrees to move it. We cannot do ex parte app here.

=====

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**Exhibit BB**



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2 Jacqueline C. Brown (SBN 177970)  
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4 Fax: (310) 201-0045  
5 Email: bfreedman@ftllp.com  
5 jbrown@ftllp.com

0 Attorneys for Defendant MARIO LAVANDEIRA

12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES

14 SAMANTHA RONSON, ) Case No. BC374174  
15 Plaintiff, ) [Assigned to the Honorable Elihu M. Berle,  
16 vs. ) Dept. 42]  
17 SUNSET PHOTO AND NEWS, LLC; ) DEFENDANT MARIO LAVANDEIRA'S  
18 JILL ISHKANIAN; MARIO LAVANDEIRA ) SUPPLEMENTAL BRIEF IN SUPPORT OF  
19 dba PEREZ HILTON; and DOES 1 through ) MOTION TO STRIKE THE COMPLAINT  
10, inclusive, ) PURSUANT TO CODE OF CIVIL  
20 Defendants. ) PROCEDURE SECTION 425.16;  
21 ) DECLARATION OF BRYAN J.  
22 ) FREEDMAN IN SUPPORT THEREOF  
23 ) [Filed Pursuant to Order of Court]  
24 ) Date: November 1, 2007  
25 ) Time: 8:30 a.m.  
Dept.: 42  
Action filed: July 12, 2007

## TABLE OF CONTENTS

	Page
2	
3	I. INTRODUCTION & FACTUAL SUMMARY .....
4	II. ARGUMENT .....
5	A. Ronson's Action is Based on Lavandeira's Free Speech Rights .....
6	1. Lavandeira's Website Is a Public Forum .....
7	2. Lavandeira's Statements About Ronson Involve Matters of Public Interest for Purposes of Section 425.16 .....
8	B. Ronson Failed to Demonstrate a Reasonable Probability of Prevailing on Her Claim .....
9	1. Ronson Failed to Demonstrate that the Statements Were False .....
10	2. Ronson Failed to Refute that Lavandeira's Subjective Statements of Opinion Do Not Constitute Provably False Statements .....
11	3. Ronson Failed to Refute that Lavandeira's Statements Were Not Made With Actual Malice .....
12	a. Ronson Is a Public Figure for Purposes of Her Defamation Claim .....
13	b. Ronson Failed to Demonstrate by, Clear and Convincing Evidence, that Lavandeira's Statements Were Made With Actual Malice .....
14	III. CONCLUSION .....
15	
16	
17	
18	
19	
20	

## TABLE OF AUTHORITIES

## STATE CASES

3	<u>Annette F. v. Sharon S.</u> , 119 Cal.App.4th 1146 (2004)	7
4	<u>Barrett v. Rosenthal</u> , 40 Cal.4th 33 (2006)	2
5	<u>Christian Research Institute v. Alnor</u> , 148 Cal.App 4th 71 (2007)	6, 7
6	<u>Hall v. Time Warner, Inc.</u> , 153 Cal.App 4th 1337 (2007)	3
7	<u>Ingels v. Westwood One Broadcasting Services, Inc.</u> , 129 Cal App 4th 1050 (2005)	4
8	<u>Kronemyer v. Internet Movie Data Base, Inc.</u> , 150 Cal.App 4th 941 (2007)	3
9	<u>McGarry v. University of San Diego</u> , 154 Cal.App 4th 97 (2007)	6, 7
10	<u>Savage v. Pacific Gas &amp; Electric Co.</u> , 21 Cal.App 4th 434 (1993)	5
11	<u>Seelig v. Infinity Broadcasting Corp.</u> , 97 Cal App.4th 798 (2002)	3, 4
12	<u>Vogel v. Felice</u> , 127 Cal.App 4th 1006 (2005)	2, 5, 6

## STATUTES

Civ. Code, § 45	6
Civ. Code, § 46	6
Code of Civ. Proc., § 425 16	2

## SECONDARY SOURCES

5 Witkin, Summary of California Law (10th ed. 2005) Torts, § 529

1    **I. INTRODUCTION & FACTUAL SUMMARY**

2       On October 10, 2007, the Court heard, for the second time, the motion to strike the  
 3       complaint pursuant to Code of Civil Procedure section 425.16 (the "Motion") brought by  
 4       defendant Mario Lavandeira ("Lavandeira") (the "Hearing No. 2"). During Hearing No. 2, the  
 5       Court granted plaintiff Samantha Ronson ("Ronson") permission to conduct a four-hour  
 6       deposition of Lavandeira to be completed no later than October 19, 2007. The Court also  
 7       ordered Ronson to submit a further supplemental opposition to the Motion no later than October  
 8       24, 2007, and Lavandeira to file a further supplemental reply no later than October 29, 2007.

9       The parties agreed that Lavandeira's deposition would take place on October 19, 2007  
 10      Declaration of Bryan J. Freedman ("Freedman Decl."), ¶ 2 & Ex. A. As a professional courtesy  
 11      to Ronson's counsel, Lavandeira's counsel arranged the court reporter for the deposition. Id., ¶  
 12      3. On October 16, 2007, Ronson's counsel, Martin Garbus of David & Gilbert LLP ("D&G"),  
 13      wrote to Lavandeira's counsel indicating that Ronson had discharged Bingham McCutchen  
 14      ("Bingham") and D&G as her counsel, and as a result, that they no longer had any authority to  
 15      act on her behalf. Mr. Garbus also indicated he would inform the Court of this development the  
 16      same day. He further indicated that Ronson's new attorney would contact Lavandeira's counsel  
 17      regarding the scheduling of the deposition and further briefing on the Motion. Id., ¶ 4 & Ex. B.

18      *To date, no motion to relieve as counsel or substitution of attorney form has been  
 19      filed with the Court; Lavandeira's counsel has not been contacted by Ronson's new counsel;  
 20      and Lavandeira's deposition did not take place by October 19, 2007 as ordered by the Court.*  
 21      Freedman Decl., ¶ 8. Instead, on October 22, 2007, Mr. Garbus faxed to Lavandeira's counsel a  
 22      declaration signed by Ronson stating that she consented to D&G and Bingham withdrawing as  
 23      her counsel. Id., ¶ 5 & Ex. C. Then, on October 26, 2007, Mr. Garbus, on behalf of Ronson,  
 24      emailed Lavandeira's counsel requesting that the parties settle the case. Id., ¶ 6 & Ex. D. On  
 25      October 29, 2007, Mr. Garbus wrote again indicating that Ronson was willing to settle with  
 26      Lavandeira based on certain terms. Id., ¶ 7, Ex. E.

27      As Lavandeira has repeatedly demonstrated, Ronson has failed to meet her burden under  
 28      Code of Civil Procedure Section 425.16 ("Section 425.16"). By failing to take advantage of the

1 opportunity given to her by the Court to depose Lavandeira and submit another opposition to the  
 2 Motion, Ronson essentially has conceded the merit of the Motion. Accordingly, the Motion  
 3 should now be granted in its entirety for the following reasons:

- 4       1.     Ronson's claim arises from Lavandeira's exercise of his constitutionally protected  
             5                  right of free speech made in a public forum regarding a matter of widespread  
             6                  public interest; and
- 7       2.     Ronson failed to demonstrate, by evidence admissible at trial, a reasonable  
             8                  probability of prevailing on her defamation claim because:  
             9                  a.     Ronson failed to demonstrate that the alleged defamatory statements were  
                     10                 false;  
             11                  b.     Ronson failed to demonstrate that Lavandeira's subjective expressions of  
                     12                 opinion are provably false; and  
             13                  c.     Ronson failed to present any evidence, let alone clear and convincing  
                     14                 evidence, that Lavandeira acted with actual malice.

15 **II. ARGUMENT**

16       **A. Ronson's Action Is Based on Lavandeira's Free Speech Rights**

17       Section 425.16(e)(3) defines acts in furtherance of free speech or petition as including  
 18 statements that are made (1) in a public forum and (2) in connection with an issue of public  
 19 interest. Section 425.16(c)(3). Ronson's claim falls directly within this category.

20       **1. Lavandeira's Website Is a Public Forum**

21       The California Supreme Court and the Courts of Appeal repeatedly have held that a web  
 22 site accessible to the public is a public forum for purposes of Section 425.16. Bariett v.  
Rosenthal, 40 Cal.4th 33, 41, fn. 4 (2006). In fact, "*[a]ll cases ... considering public Web sites  
 23 in this context have concluded that such a site constitutes a public forum within section  
 24 425.16.*" Vogel v. Felice, 127 Cal App 4th 1006, 1015 (2005) (emphasis added).

25       Ronson alleges that each of Lavandeira's allegedly defamatory statements appeared on  
 26 the Website. Complaint, ¶¶ 6-7, 20-21. Lavandeira presented specific evidence demonstrating  
 27 that his Website constitutes a public forum. Lavandeira Decl. in Support of Motion ("Lavandeira  
 28

1 Decl."), ¶4. *His evidence is uncontradicted.*

2           2.       Lavandeira's Statements About Ronson Involve Matters of Public  
 3           Interest for Purposes of Section 425.16

4           The law is settled that a statement or other conduct relates to "an issue of public interest  
 5           if the statement or conduct concerns a topic of widespread public interest and contributes in  
 6           some manner to a public discussion of the topic." Hall v. Time Warner, Inc., 153 Cal App 4th  
 7           1337, 1347 (2007). An event that is of "significant interest to the public and the media" satisfies  
 8           the public interest requirement. Seelig v. Infinity Broadcasting Corp., 97 Cal App 4th 798, 807-  
 9           808 (2002). Recent decisions interpreting the scope of Section 425.16 demonstrate that matters  
 10          of public interest increasingly involve the celebrities and popular culture.

11          For example, in Hall v. Time Warner, Inc., 153 Cal.App.4th 1337 (2007), the former  
 12          housekeeper of Marlon Brando, who was named as the beneficiary of Brando's living trust, sued  
 13          the producers of the nationally broadcast television show "Celebrity Justice" after a reporter for  
 14          show interviewed the housekeeper in her room in a retirement home and portions of the  
 15          interview were televised. Id. at 1341-1342. Significantly, the court in Hall held:

16          "The public's fascination with Brando and widespread public  
 17          interest in his personal life made Brando's decisions concerning  
 18          the distribution of his assets a public issue or an issue of public  
 19          interest. *Although Hall was a private person and may not have  
                  voluntarily sought publicity or to comment publicly on Brando's  
                  will, she nevertheless became involved in an issue of public  
                  interest by virtue of being named in Brando's will.*"

20          Hall, 153 Cal.App.4th at 1347 (emphasis added)

21          Additionally, in Kronemyer v. Internet Movie Database, Inc., 150 Cal.App.4th 941  
 22          (2007), the court held that the independent film "My Big Fat Greek Wedding" constituted a topic  
 23          of widespread public interest for purposes of Section 425.16. Id. at 949-950. In Seelig v. Infinity  
 24          Broadcasting Corp., 97 Cal.App.4th 798 (2002), the court held that statements made about a  
 25          contestant on the television program "Who Wants to Marry a Multimillionaire" by radio talk  
 26          show hosts constituted a matter of public interest for purposes of Section 425.16(e)(3) because  
 27          the television program had generated considerable media attention and "*[b]y having chosen to  
                  participate as a contestant in the Show, plaintiff voluntarily subjected herself to inevitable*

1 *public scrutiny and potential ridicule by the public and the media.”* Seelig, 97 Cal.App 4th at  
 2 807 (emphasis added). Similarly, Ingels v. Westwood One Broadcasting Servs., Inc., 129  
 3 Cal App 4th 1050 (2005), the court held that a live call-in radio talk show, targeted to men aged  
 4 25-34 and focused primarily on relationships between men and women, was a matter of public  
 5 interest for purposes of Section 425.16. Id. at 1056.

6 It is undisputed that Lohan is the subject of widespread media attention. Additionally,  
 7 Ronson admits the Accident was the subject of widespread media attention. Complaint, ¶¶ 10-  
 8 11 As a result, the circumstances surrounding the Accident, the persons involved in the  
 9 Accident (*i.e.* Ronson), the cocaine found by the police, and whether Lohan was betrayed by the  
 10 friends are also matters of widespread public interest. Therefore, regardless of whether Ronson  
 11 voluntarily sought publicity in connection with the Accident, she nevertheless became involved  
 12 in an issue of public interest by virtue of being involved in the Accident.

13 Ronson also has voluntarily and publicly associated herself with Lohan both  
 14 professionally and socially. For example, on her website, Ronson repeatedly links herself  
 15 professionally to Lohan. See R.J.N., Ex. B. She has also been repeatedly photographed  
 16 performing professionally with Lohan. Brown Decl., ¶ 10, Ex. M. She is also frequently seen  
 17 and photographed partying with Lohan at clubs and various events. Id. Additionally, recently  
 18 Lohan told Elle Magazine that Ronson was her best friend. Id. Thus, by voluntarily and  
 19 publicly associating herself with Lohan, both professionally and socially, Ronson also voluntarily  
 20 subjected herself to the inevitable scrutiny and potential ridicule by the public and media.  
 21 Lavandeira’s articles about Accident, the cocaine, and Ronson’s relationship with Lohan  
 22 contributed to the public discussion of these issues.

23       B.     Ronson Failed to Demonstrate a Reasonable Probability of Prevailing on Her  
 24       Defamation Claim

25       1.     Ronson Failed to Demonstrate that the Statements Were False

26       The only declaration properly submitted by Ronson is the declaration submitted with her  
 27 opposition that was filed on or about September 13, 2007. This declaration, which appeared  
 28 intentionally ambiguous and vague, gives rise to the to a reasonable implication that Lavandeira’s

1 statements were substantially true. For example, in that declaration, Ronson states that "I have  
 2 never placed cocaine next to Lindsay Lohan in a car I am not a drug user. I never arranged for a  
 3 photographer to take photographs of Lindsay Lohan while she was in a car" Ronson Decl., ¶ 2.  
 4 Significantly, however, these statements do not refute the alleged defamatory statements made  
 5 about her and upon which she sues

6 The statements republished by Lavandeira did not state that *Ronson placed cocaine next*  
 7 *to Lohan in a car or that Ronson was a drug user* Rather, the statements were that "Ronson was  
 8 the one who was holding the cocaine later found in Lindsay's car," and "the cocaine that was  
 9 found in Lohan's car after her crash may have been RONSON's!" Complaint, ¶¶ 13, 20 The  
 10 statements also did not indicate that *Ronson arranged for a photographer to take photographs of*  
 11 *Lohan while she was in a car* Rather, the statement was that Ronson "allegedly entered into an  
 12 agreement with a photo agency to tip them off to her whereabouts with Lindsay, even creating  
 13 photo-ops for them" Complaint, ¶ 20

14 Given the discrepancies between Ronson's declaration and the alleged defamatory  
 15 statements, her declaration raises more questions than it answers. Additionally, the ambiguity of  
 16 her declaration is all the more striking considering the presumptive ease with which she could  
 17 have stated the true facts Her failure to plainly and unequivocally refute the alleged defamatory  
 18 statements by stating the true facts may be reasonably understood to imply that the statements  
 19 about her were substantially true. *Vogel v. Felice*, 127 Cal App.4th 1006, 1021-1022 (2005)

20 **2. Ronson Failed to Refute that Lavandeira's Subjective Statements of**  
**Opinion Do Not Constitute Provably False Statements**

21 Ronson's claim is based on two categories of statements: (1) Lavandeira's subjective  
 22 statements of opinion about Ronson and (2) Lavandeira's republishing of statements made by  
 23 others about Ronson Motion, p. 10; see also Complaint, ¶¶ 20-21. With regard to the first  
 24 category of statements, the law is well settled that statements of opinion are not actionable  
 25 *Savage v. Pacific Gas & Elec. Co.*, 21 Cal.App.4th 434, 445 (1993). Lavandeira demonstrated  
 26 that his subjective statements of opinion about Ronson (i.e., Ronson has been "toxic" to Lohan,  
 27 Lohan does not need enemies with friends like Ronson, and that Lavandeira blames Ronson for

1 Lohan's problems), are not actionable because they cannot be reasonably interpreted as stating  
 2 actual facts about Ronson *Significantly, Ronson failed to address this issue in any way.*

3       **3. Ronson Failed to Refute that Lavandeira's Statements Were Not**  
 4       **Made with Actual Malice**

5       **a. Ronson is a Public Figure for Purposes of Her Defamation**  
 6       **Claim**

7       A person will be considered a "limited purpose" public figure if he voluntarily injects  
 8 himself *or* is drawn into a particular public issue, and thereby becomes a public figure for a  
 9 limited range of issues. McGarry v. University of San Diego, 154 Cal App 4th 97, 113 (2007)  
 10 For the following reasons, Ronson is, at a minimum, a limited purpose public figure:

11       *First*, Ronson admits in her complaint that she is a public figure. She expressly alleges  
 12 that Lavandeira made the statements about her with "actual malice" and reckless disregard for the  
 13 falsity of the statements. Complaint, ¶ 22. Significantly, the essential elements of defamation do  
 14 not include actual malice See Civ. Code, §§ 45-46; 5 Witkin, Summary of Cal. Law (10th ed.  
 15 2005) Torts, § 529, p. 782 In fact, a plaintiff need only allege actual malice if he or she is a  
 16 public figure. See Vogel, 127 Cal.App.4th at 1017. By alleging actual malice, Ronson admits  
 17 that she is a limited public figure.

18       *Second*, Ronson has injected herself and/or has been drawn into the issues surrounding  
 19 Lohan's drug and alcohol use, the Accident, the cocaine found in Lohan's car, and her  
 20 relationship with Lohan by (1) voluntarily and publicly associating herself with Lohan both  
 21 professionally and socially and (2) by being involved with the Accident, which is a matter of  
 22 widespread public interest

23       **b. Ronson Failed to Demonstrate, By Clear and Convincing**  
 24       **Evidence, that Lavandeira's Statements Were Made With**  
 25       **Actual Malice**

26       Ronson was required to present clear and convincing evidence that Lavandeira acted with  
 27 actual malice Christian Research Institute v. Alnor, 148 Cal App 4th 71, 84-85 (2007) This  
 28 standard "presents a heavy burden, far in excess of the preponderance sufficient for most civil

1 litigation. The burden of proof by clear and convincing evidence ... *must be sufficiently strong to*  
 2 *command the unhesitating assent of every reasonable mind.*" *Id.*, at 84 (citations omitted &  
 3 emphasis added).

4 Thus, to make her showing, Ronson was required to demonstrate that Lavandeira "either  
 5 knew his statement was false or subjectively entertained serious doubt that his statement was  
 6 truthful." *Id.* at 84 The test is "*a subjective test, under which the defendant's actual belief*  
 7 *concerning the truthfulness of the publication is the crucial issue.*" McGarry v. University of  
 8 San Diego, 154 Cal.App.4th 97, 114 (2007) (emphasis added). *It is not a negligence test*  
 9 *measured by whether a reasonably prudent person would have published, or would have*  
 10 *investigated before publishing, the defamatory statement.* Instead, the evidence must "permit  
 11 the conclusion that the defendant actually had a 'high degree of awareness of ... probable  
 12 falsity.'" *Id.* (citations omitted).

13 Lavandeira presented specific evidence demonstrating that he genuinely believed that the  
 14 statements regarding Ronson were true and he had no doubts of that they were false *Id.*, ¶¶ 11,  
 15 19. *This evidence is uncontradicted by Ronson.* As a result, she failed to meet her burden  
 16 under Section 425.16

17 Ronson asserts that *Lavandeira's declaration* demonstrates that the statements were made  
 18 with actual malice. She is wrong. Ronson had the affirmative burden to present evidence of  
 19 actual malice. She failed to do so. Instead, she asserts that actual malice is shown by  
 20 Lavandeira's failure to independently investigate the statements and his ill-will toward her based  
 21 on his hand-written scribbles over Ronson's picture and the sweatshirt bearing the words "Blame  
 22 Samantha." Even if Ronson had presented evidence on these issues, they are insufficient,  
 23 individually or in combination, to establish actual malice. Annette F. v. Sharon S., 119  
 24 Cal App.4th 1146 (2004) (evidence of ill-will and lack of an investigation insufficient to show  
 25 actual malice by clear and convincing evidence). As a result, Ronson fails to demonstrate actual  
 26 malice and fails to meet her burden under Section 425.16

27     ///

28     ///

### III. CONCLUSION

For the foregoing reasons, Lavandeira respectfully requests that the Court grant his motion in its entirety and award Lavandeira attorneys' fees and costs associated with this Motion.

DATED: October 29, 2007

FREEDMAN & TAITELMAN, LLP

By:

JACQUELINE C. BROWN  
Attorneys for Defendant MARIO LAVANDEIRA

**DECLARATION OF BRYAN J. FREEDMAN**

I, Bryan J. Freedman, declare:

1. I am an attorney duly authorized to practice law in the State of California and a partner in the law firm Freedman & Taitelman, LLP, counsel of record for defendant Mario Lavandeira (“Lavandeira”) in the above-referenced action. I have personal knowledge of the facts set forth herein and could and would testify competently to them if called to do so.

2 Following the hearing on October 10, 2007 regarding Lavandeira's Motion to  
Strike the Complaint Pursuant to Code of Civil Procedure Section 425.16 (the "Motion"), I  
emailed counsel for plaintiff Samantha Ronson ("Ronson") indicating that Lavandeira would be  
available for deposition on October 19, 2007 from 1:00 p.m. to 5:00 p.m. A true and correct  
copy of my email to Ronson's counsel, D. Wayne Jeffries, is attached hereto as Exhibit A

3. On October 15, 2006, as a professional courtesy to Ronson's counsel, Martin Garbus, I caused a court reporter to be reserved for Lavandeira's deposition

4 On October 16, 2006, I received a letter from Mr. Garbus, via facsimile, indicating that he and his co-counsel, Bingham McCutchen ("Bingham"), had been discharged by Ronson and that her new counsel would contact me about Lavandeira's deposition and further briefing on the Motion. A true and correct copy of Mr. Garbus's letter is attached hereto as Exhibit B.

5. On October 22, 2006, Mr. Garbus faxed to me a declaration of Samantha Ronson stating that she consented to Mr. Garbus and Bingham withdrawing as her counsel. A true and correct copy of this facsimile is attached hereto as Exhibit C.

6 On October 26, 2006, I received an email from Mr. Garbus, on behalf of Ronson,  
7 requesting that the parties settle this case A true and correct copy of Mr. Garbus's email is  
8 attached hereto as Exhibit D I have received no further contact from Mr. Garbus

5           7     On October 29, 2007, Mr. Garbus faxed me a letter indicating that he was  
6 authorized by Ronson to communicate to me that she was willing to enter into a settlement  
7 agreement with Lavandeira pursuant to certain terms. A true and correct copy of Mr. Garbus's  
8 letter is attached hereto as Exhibit F.

10 8 To date, I have not been served with a motion to be relieved as counsel from Mr.  
11 Garbus or Bingham or a substitution of attorney form. I also have not contacted by new counsel  
12 for Ronson. Additionally, the deposition of Lavandeira has not been conducted.

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing is true and correct.

17 Executed this 29th day of October 2007 at Los Angeles, California

BRYAN J. FREEDMAN

Exhibit CC

**From:** Jeffries, D Wayne [Wayne.Jeffries@bingham.com]  
**Sent:** Wednesday, October 31, 2007 2:42 PM  
**To:** Garbus, Martin; Tourin, Fredda  
**Cc:** Friedman, Bruce A.; McGee, Donna  
**Subject:** Ronson

Martin:

As I previously advised you, neither Bruce nor I plan to attend the hearing tomorrow. I take that you are planning to attend. Please advise.

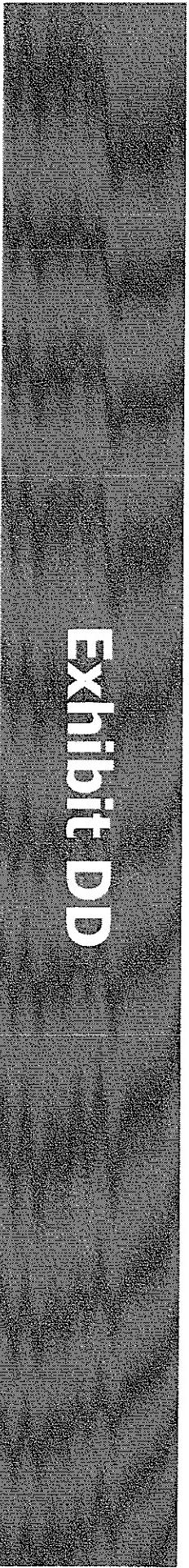
Wayne

=====

Bingham McCutchen LLP Circular 230 Notice: To ensure compliance with IRS requirements, we inform you that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of avoiding any federal tax penalties. Any legal advice expressed in this message is being delivered to you solely for your use in connection with the matters addressed herein and may not be relied upon by any other person or entity or used for any other purpose without our prior written consent.

=====

**Exhibit DD**



---

**From:** Jeffries, D. Wayne [Wayne.Jeffries@bingham.com]  
**Sent:** Thursday, November 01, 2007 5:49 AM  
**To:** Garbus, Martin; bfreedman@ftllp.com  
**Cc:** McGee, Donna  
**Subject:** RE: I trust you have the faxed stipulation from Ronson

Why would you ever conclude that!?! Of course not. I have received nothing. You may understand that I am not pleased with having to appear this morning, when you were going to do so. wj

-----Original Message-----

From: Garbus, Martin [mailto:MGARBUS@dglaw.com]  
Sent: Thursday, November 01, 2007 5:41 AM  
To: Jeffries, D. Wayne; bfreedman@ftllp.com  
Subject: I trust you have the faxed stipulation from Ronson

---

IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. For more information please click on the following link:  
<http://www.dglaw.com/circular/>

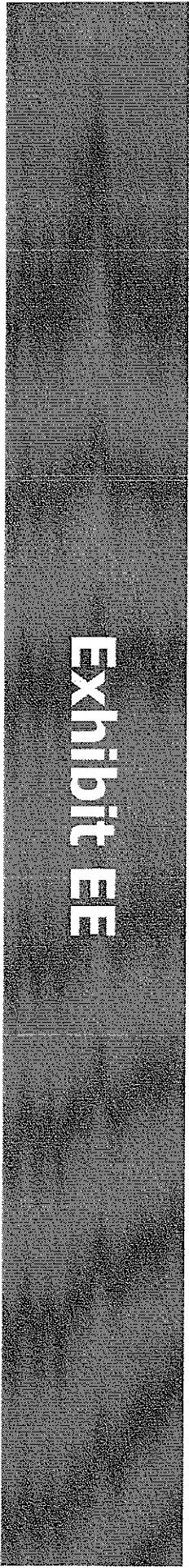
This message contains confidential information and is intended only for Wayne.Jeffries@bingham.com, bfreedman@ftllp.com. If you are not Wayne.Jeffries@bingham.com, bfreedman@ftllp.com you should not disseminate, distribute or copy this e-mail. Please notify MGARBUS@dglaw.com immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If verification is required please request a hard-copy version.

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Bingham McCutchen LLP Circular 230 Notice: To ensure compliance with IRS requirements, we inform you that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of avoiding any federal tax penalties. Any legal advice expressed in this message is being delivered to you solely for your use in connection with the matters addressed herein and may not be relied upon by any other person or entity or used for any other purpose without our prior written consent.

---

**Exhibit EE**



1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 42 HON. ELIHU M. BERLE, JUDGE  
4

5 SAMANTHA RONSON, )  
6 PLAINTIFF, )  
7 V. ) BC 374174  
8 )  
9 SUNSET PHOTO AND NEWS LLC; )  
10 JILL ISHKANIAN; MARIO LAVANDEIRA )  
d/b/a PEREZ HILTON, and DOES )  
1-10, inclusive, )  
11 DEFENDANTS. )  
12 )

**CERTIFIED COPY**

13  
14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 THURSDAY, NOVEMBER 1, 2007  
16

17 APPEARANCES:

18 FOR PLAINTIFF BINGHAM McCUTCHEN LLP  
19 SAMANTHA RONSON: BY: D. WAYNE JEFFRIES  
The Water Garden  
20 1620 26th Street  
Santa Monica, CA 90404  
21 (310) 907-1000

22 FOR DEFENDANT FREEDMAN & TAITELMAN, LLP  
23 MARIO LAVANDEIRA: BY: BRYAN J. FREEDMAN  
1901 Avenue of the Stars  
24 Suite 500  
Los Angeles, CA 90067  
25 (310) 201-0005

26  
27  
28 LINDA NISHIMOTO, CSR 9147  
OFFICIAL REPORTER

1 CASE NUMBER: BC 374174  
2 CASE NAME: SAMANTHA RONSON, ET AL.,  
3 VERSUS  
4 SUNSET PHOTO AND NEWS LLC  
5 LOS ANGELES, CALIFORNIA THURSDAY, NOVEMBER 1, 2007  
6 DEPARTMENT 42 HON. ELIHU M. BERLE, JUDGE  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8 REPORTER: LINDA NISHIMOTO, CSR NO. 9147  
9 TIME: A.M. SESSION

10 \*\*\*\*

11 (In open court:)

12 THE COURT: Calling the case of Ronson versus  
13 Sunset Photo.

14 MR. JEFFRIES: Wayne Jeffries of Bingham McCutchen  
15 for plaintiff.

16 MR. FREEDMAN: Bryan Freedman, Freedman and  
17 Taitelman, on behalf of defendant Mario Lavandeira.

18 THE COURT: Good morning. The matter is here on a  
19 motion to strike the complaint pursuant to Code of Civil  
20 Procedure section 425.16.

21 Does anyone wish to be heard on this?

22 MR. JEFFRIES: No, your Honor.

23 MR. FREEDMAN: I just want to make sure, your  
24 Honor, that you received our supplemental brief that was  
25 filed in support of the motion to strike.

26 THE COURT: Yes.

27 Let me ask a couple of questions on  
28 procedure.

1                         First of all, I received a document which  
2 seemed to be quite strange. This was a request for  
3 dismissal of the complaint of the entire action and it was  
4 signed by Mr. Martin Garbus, and Mr. Martin Garbus, of  
5 course, is not counsel of record. Although he was granted  
6 permission to appear pro hac vice, it was only for the  
7 limited purpose of appearance with regard to the anti-SLAPP  
8 motion.

9                         Do you know anything about this piece of  
10 paper?

11                         MR. JEFFRIES: I am not sure I have seen that piece  
12 of paper, your Honor. I know he wrote the court a letter.  
13 I saw a copy of that, but I don't recall seeing a request  
14 for dismissal by Mr. Garbus.

15                         THE COURT: I consider this to be a nullity and of  
16 no significance whatsoever because Mr. Garbus is not  
17 attorney of record and he has no authority to dismiss this  
18 case.

19                         I take it from the appearance here, that as  
20 far as Bingham McCutchen is concerned, the case is still  
21 pending and you are attorney of record?

22                         MR. JEFFRIES: Yes, your Honor. I am attorney of  
23 record and the case is still pending.

24                         THE COURT: And you did not dismiss the case as  
25 attorney of record?

26                         MR. JEFFRIES: No, your Honor.

27                         THE COURT: And then the next thing I received was  
28 a letter, which the court does not accept any letters, but

1 we have to acknowledge that we did receive a letter, but it  
2 is of no legal significance. It was some letter and counsel  
3 was copied on it, Mr. Freedman and Mr. Jeffries, and I am  
4 not going to state what is in the letter because it's of no  
5 significance. The way to file documents in a court  
6 proceeding is to file appropriate pleadings, not to send  
7 letters.

8 So with all of that, we will proceed with  
9 the hearing today. I do note one other thing, which is that  
10 at the hearing held on October 10, 2007, the court gave  
11 plaintiff permission to file additional opposition to the  
12 anti-SLAPP motion by October 24th and then defendant would  
13 have permission to file an additional reply by October 29th.  
14 I did receive additional papers from the defendant. I did  
15 not receive any additional opposition from the plaintiff.

16 Is it correct that plaintiff did not file  
17 anything in addition?

18 MR. JEFFRIES: That is my understanding, your  
19 Honor.

20 THE COURT: Okay, anything further?

21 Plaintiff, you indicated, Mr. Jeffries, that  
22 you don't have anything further to say.

23 Defendant, Mr. Freedman, do you have  
24 anything to add?

25 MR. FREEDMAN: Not unless the court has any  
26 specific questions with respect to the motion to strike.

27 THE COURT: Thank you.

28 Counsel, why don't you take a seat? This

1 that defendants made any statements with malice, which as I  
2 said is a necessary requirement for plaintiff to be able to  
3 prevail given the fact plaintiff is at the very minimum a  
4 limited public figure, if not a public figure herself,  
5 plaintiff has not presented evidence to show that any  
6 statements made by the defendants were made with malice or  
7 reckless indifference.

8 Plaintiff has not filed any supplemental  
9 papers, notwithstanding the fact that the court gave  
10 plaintiff an opportunity to take the deposition of defendant  
11 and to file supplemental papers. Thus, plaintiff has not  
12 met her burden to show a probability of prevailing even on  
13 the minimum evidentiary standard that is required in a SLAPP  
14 motion, and that is the standard of showing that she can  
15 establish the elements of her case even by the standard that  
16 is required of oppositions to summary judgment motions.

17 Defendant having met the burden to show that  
18 this action involves statements made in a public forum on a  
19 matter of public interest involving a public figure and the  
20 burden having shifted to the plaintiff on the defamation  
21 claim of a public figure, the court finds that plaintiff has  
22 not met her burden of showing any evidence of malice, and,  
23 therefore, the court is going to grant the motion of the  
24 defendant to strike the complaint under Code of Civil  
25 Procedure 425.16.

26 I would ask the defendant to give notice.  
27 Thank you, counsel.

28 MR. JEFFRIES: Thank you, your Honor.

1 MR. FREEDMAN: Thank you, your Honor.

2 Your Honor, we will submit a motion for  
3 attorneys' fees.

4 THE COURT: Yes. Thank you. Submit it on regular  
5 notice.

6 Thank you, counsel.

7 MR. JEFFRIES: Thank you, your Honor.

8 (Proceeding adjourned.)

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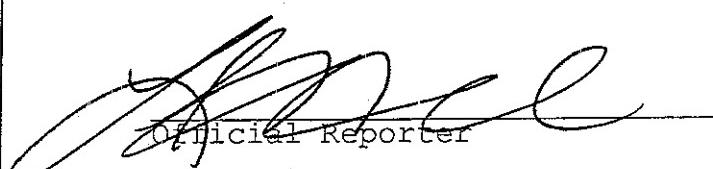
1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 42 HON. ELIHU M. BERLE, JUDGE  
4

5 SAMANTHA RONSON, )  
6 )  
7 PLAINTIFF ) BC 374174  
8 V. ) REPORTER'S  
9 SUNSET PHOTO AND NEWS, LCC, et al., ) CERTIFICATE  
10 )  
11 DEFENDANTS. )  
12 \_\_\_\_\_)

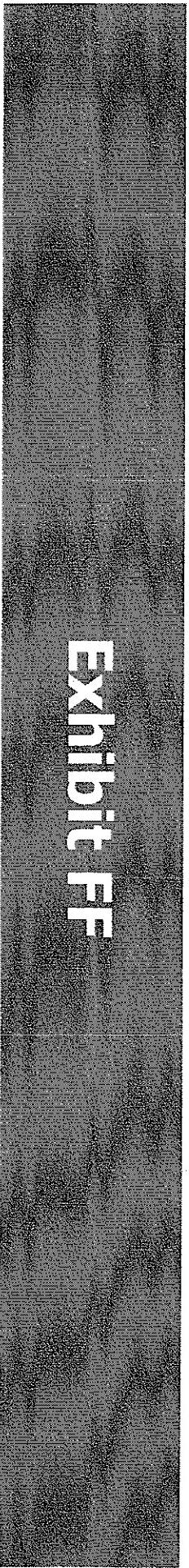
13 STATE OF CALIFORNIA ) SS  
14 COUNTY OF LOS ANGELES)

15 I, Linda Nishimoto, Official Reporter of the Superior  
16 Court of the State of California, for the County of Los  
17 Angeles, do hereby certify that the foregoing pages, 1  
18 through 17, inclusive, comprise a full, true and correct  
19 transcript of the proceedings held on Thursday, November  
20 1, 2007, in the matter of the above-entitled cause.  
21

22 Dated this 8th day of November, 2007.  
23  
24

25   
26 C.S.R. 9147  
27 Official Reporter  
28

**Exhibit FF**



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 11/01/07

DEPT. 42

HONORABLE ELIHU M. BERLE

JUDGE

N DIGIAMBATTISTA

DEPUTY CLERK

HONORABLE  
6

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C ELLIS/C.A.

Deputy Sheriff

L NISHIMOTO

Reporter

8:32 am BC374174

Plaintiff

Counsel

D. WAYNE JEFFRIES (X)

SAMANTHA RONSON

Defendant

VS

Counsel

BRYAN J. FREEDMAN (X)

SUNSET PHOTO AND NEWS LLC ET AL

170.6-SOHIGIAN/DEFT

**NATURE OF PROCEEDINGS:**

MOTION OF DEFENDANT, MARIO LAVANDEIRA, TO STRIKE THE COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 425.16

Matter comes on for hearing.

The court advises counsel that the dismissal as to the complaint lodged with the court on October 15, 2007, by Mr. Garbas is considered a nullity and will not be filed because Mr. Garbas is not counsel of record.

The motion to strike the complaint pursuant to Code of Civil Procedure Section 425.16 is granted. Defendants have met their burden to show that this libel action involves claimed statements of defendants made in a public forum on a matter of public interest about a public figure or a limited public figure. Thus, defendants have demonstrated that this action is within the ambit of Code of Civil Procedure Section 425.16. In response, plaintiff has not presented evidence to establish a probability that plaintiff will prevail on her claim for libel. Specifically, plaintiff has not presented any evidence to show malice on the part of defendants, a necessary element for a claim of defamation by a public figure.

Accordingly, the complaint is ordered dismissed this date. The case management conference set for December 12, 2007, is advanced to this date and ordered

Page 1 of 2 DEPT. 42

MINUTES ENTERED 11/01/07 COUNTY CLERK
---

LAW/CLERK

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 11/01/07

DEPT. 42

HONORABLE ELIHU M. BERLE

JUDGE

N DIGIAMBATTISTA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

6A

C ELLIS/C.A.

Deputy Sheriff

L NISHIMOTO

Reporter

8:32 am	BC374174	Plaintiff Counsel	D. WAYNE JEFFRIES (X)
	SAMANTHA RONSON VS SUNSET PHOTO AND NEWS LLC ET AL	Defendant Counsel	BRYAN J. FREEDMAN (X)
	170.6-SOHIGIAN/DEFT		

**NATURE OF PROCEEDINGS:**

vacated.

Counsel for defendants is to give notice and to prepare the appropriate order. Any motion for attorney's fees is to be filed on regular notice.

**Exhibit G**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

DAVIS & GILBERT LLP,

Plaintiff,

-against-

SAMANTHA RONSON,

Defendant.

Index No. 60-3759/07

Date of Filing: November 13, 2007.

**SUMMONS**

Plaintiffs designate New York County, as the place of trial based upon CPLR 503 (a).

**TO THE ABOVE-NAMED DEFENDANT: SAMANTHA RONSON**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on plaintiffs' attorneys within 20 days after service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York) and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York

November 13, 2007

DAVIS & GILBERT LLP

By:

Martin Garbus  
1740 Broadway  
New York, New York 10019  
(212) 468-4800

Address:

Samantha Ronson  
5210 North Rossmore Avenue  
Apt. 102  
Los Angeles, CA 90004

NEW YORK  
CITY CLERK'S OFFICE  
NOV 13 2007  
N.Y.C. COMPARED  
WITH COPY FILE

SUPREME COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

DAVIS & GILBERT LLP,

Plaintiff,

-against-

SAMANTHA RONSON,

Defendant.

Index No. 603759/07

VERIFIED COMPLAINT

Davis & Gilbert LLP, as attorneys pro se, for its Verified Complaint against defendant hereby alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

1. Plaintiff Davis & Gilbert LLP ("D&G" or "Plaintiff") is a New York limited liability partnership which engages in the practice of law with its principal place of business in New York City.

2. Upon information and belief, defendant Samantha Ronson ("Ronson") is an individual residing in the State of California, City of Los Angeles, with an address at 5210 North Rossmore Avenue, Apt. 102, Los Angeles, CA 90004.

3. Upon information and belief, Ronson transacts or has transacted business in the State of New York, and Plaintiff's claims arise from said transaction of business.

NEW YORK  
COURT CLERK'S OFFICE

3 2007

SEARCHED  
INDEXED  
FILED

4. Venue is proper pursuant to CPLR § 503 because plaintiff's principle place of business is in New York, and because the acts giving rise to the causes of action in this complaint occurred within New York County.

5. By letter dated June 8, 2007, and agreed to on June 19, 2007, Ronson retained D&G as legal counsel to represent Ronson in connection with lawsuits to be filed against websites which defamed Ronson.

6. The services rendered by D&G and by Bingham McCutchen LLP ("Bingham"), California counsel retained by D&G, were duly accepted by Ronson.

7. Statements for the services rendered by D&G and by Bingham for Ronson and costs incurred by D&G and by Bingham on behalf of Ronson presently outstanding, total for Bingham \$23,340.17 and for D&G \$141,590.55, for a total of \$164,930.72.

8. Despite demands, Ronson has failed to pay D&G and Bingham.

9. D&G and Bingham have performed all services required by them on behalf of Ronson.

10. One of the defendants, Celebrity Babylon, sued in a libel case, by Plaintiffs, on behalf of Ronson, issued a retraction, agreed to feature that retraction on its website and agreed to have that retraction on Ronson's website. Celebrity Babylon also agreed to remove any references on its website to any allegations that Ronson ever used drugs. The other defendant, Mario Lavandeira, was to be deposed at the time that Plaintiffs were discharged.

11. Defendant, after stating she intended to pay for the services rendered, claimed she was unable to pay the legal fees. She failed to return calls, missed

appointments, and otherwise acted in an unprofessional manner, making the presentation of the case, and the settlement with Celebrity Babylon, exceedingly difficult. Defendant then discharged Plaintiffs to seek a contingency lawyer.

12. There is, at present, due to D&G from Ronson the sum of \$164,930.72.

**AS AND FOR A SECOND CAUSE OF ACTION**

**(Unjust Enrichment)**

13. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 12 of the Complaint as if set forth fully herein.

14. D&G and Bingham rendered services for, and incurred expenses on behalf of, Ronson

15. Ronson knew such services were being performed and such expenses were being incurred by D&G and Bingham with the expectation of payment, and Ronson acquiesced to said services being performed and said expenses being incurred, and accepted the same and received the benefits therefrom.

16. Said services rendered by D&G and by Bingham, and expenses incurred by D&G and Bingham, on behalf of Ronson are reasonably worth the sum of \$164,930.72.

17. There is at present due and owing to D&G from Ronson the sum of \$164,930.72.

**AS AND FOR A THIRD CAUSE OF ACTION**

**(Statement of Account)**

18. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 17 of the Complaint as if set forth fully herein.

19. Plaintiff submitted a statement of account to Ronson for D&G for the period beginning June 6, 2007 and ending October 16, 2007, totaling \$141,590.55 beyond the original retainer.

20. Plaintiff submitted a statement of account to Ronson for Bingham's services for the period September 4, 2007 and ending September 30, 2007, totaling \$23,340.17.

21. Ronson accepted Plaintiff's statement of account, saying she would work out a payout but has failed to do so.

22. There is presently due from Ronson to Plaintiff the sum of \$164,930.72, plus interest from October 16, 2007.

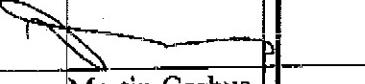
WHEREFORE, Plaintiff demands judgment against Ronson as follows:

- (a) On the First Cause of Action, the sum of \$164,930.72, plus interest from October 16, 2007;
- (b) On the Second Cause of Action, the sum of \$164,930.72, plus interest from October 16, 2007;
- (c) On the Third Cause of Action, the sum of \$164,930.72, plus interest from October 16, 2007;
- (d) The costs and disbursements of this action; and

(e) Such other and further relief as the Court deems necessary and proper.

Dated: New York, New York  
November 2, 2007

DAVIS & GILBERT LLP

By: 

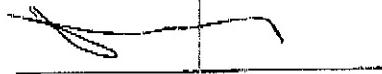
Martin Garbus  
Attorneys Pro Se  
1740 Broadway  
New York, New York 10019  
(212) 468-4800

VERIFICATION

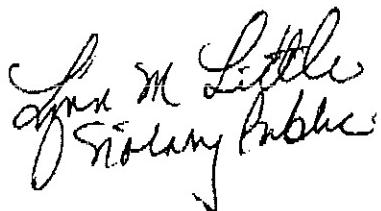
COUNTY OF NEW YORK )  
STATE OF NEW YORK ) ss:  
                      )

MARTIN GARBUS, being duly sworn, deposes and says:

I have read the foregoing Complaint and know the content thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. This verification is made by me because I am a member of the firm of Davis & Gilbert LLP, the Plaintiff in the above-captioned matter, and am familiar with the facts therein.



Subscribed and sworn to before me  
this 13<sup>th</sup> day of November 2007



LYNN M. LITTLE  
Notary Public, State of New York  
No. 01L-16043500  
Qualified in Kings County  
Commission Expires June 19, 2011  
Certification File In NY County

**Exhibit HH**

Dec 11 2007 3:51PM David Bass &amp; Associates

No 5869 P 6

MC-050

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David M. Bass (State Bar No. 117199) Michael J. Gulden (State Bar No. 243383) DAVID M. BASS & ASSOCIATES 2029 Century Park East, 14th Floor Los Angeles, CA 90067 TELEPHONE NO: (310) 789-1152 FAX NO (Optional): (310) 789-1149 E-MAIL ADDRESS (Optional): dbass@basslawla.com		FOR COURT USE ONLY <b>ORIGINAL FILED</b> LOS ANGELES DEC 17 2007 SUPERIOR COURT VICTOR E. SINO-CRUZ DEPUTY
ATTORNEY FOR (Name): Plaintiff Samantha Ronson SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse CASE NAME: Samantha Ronson v. Sunset Photo and News, LLC et al.		By:
<b>SUBSTITUTION OF ATTORNEY—CIVIL (Without Court Order)</b>		CASE NUMBER: BC374174

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): Samantha Ronson makes the following substitution:

- 1 Former legal representative  Party represented self  Attorney (name): Martin Garbus, James Levine
- 2 New legal representative  Party is representing self\*  Attorney David M. Bass
  - a Name: David M. Bass
  - b State Bar No (if applicable): 117199
  - c Address (number, street, city, ZIP, and law firm name, if applicable): David M. Bass & Associates, 2029 Century Park East, 14th Floor, Los Angeles, CA 90067.
- d Telephone No (include area code): (310) 789-1152
- 3 The party making this substitution is a  plaintiff  defendant  petitioner  respondent  other (specify):

**\*NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

- Guardian
- Personal Representative
- Guardian ad litem
- Conservator
- Probate fiduciary
- Unincorporated association
- Trustee
- Corporation

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

**NOTICE TO PARTIES WITHOUT ATTORNEYS**

A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4 I consent to this substitution.

Date: December 17, 2007

Samantha Ronson

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY)

5  I consent to this substitution

Date: December 17, 2007

Martin Garbus (Admitted Pro Hac Vice)

(TYPE OR PRINT NAME)

(SIGNATURE OF FORMER ATTORNEY)

8  I consent to this substitution

Date: December 11, 2007

David M. Bass

(TYPE OR PRINT NAME)

(SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

Page 1 of 2

## **PROOF OF SERVICE**

[CCP, §§1013(a) and 2015.5]

## STATE OF CALIFORNIA

) Case No. BC374174

## COUNTY OF LOS ANGELES

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I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2029 Century Park East, 14<sup>th</sup> Floor, Los Angeles, California 90067

On December 17, 2007, I served the foregoing document described as **SUBSTITUTION OF ATTORNEY** on all interested parties in this action by placing the original/true copies thereof enclosed in (a) sealed envelope(s) addressed as stated below:

Bryan J. Freedman, Esq.  
Jacqueline C. Brown, Esq.  
Freedman & Taitelman, LLP  
1901 Avenue of the Stars, Suite 500  
Los Angeles, CA 90067-6027

Gregory L. Doll, Esq.  
Michael A. Amir, Esq.  
Doll, Amir & Eley LLP  
1888 Century Park East, Suite 1106  
Los Angeles, CA 90067

Maurice Wainer, Esq.  
Snipper, Wainer & Markoff  
Penthouse, 270 North Canon Drive  
Beverly Hills, CA 90210

Martin Garbus, Esq.  
Davis & Gilbert LLP  
1740 Broadway  
New York, NY 10019

Bruce A Friedman, Esq.  
Bingham McCutchen LLP  
1620 26<sup>th</sup> Street  
Fourth Floor, North Tower  
Santa Monica, CA 90404

**BY MAIL** I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**BY (OVERNIGHT COURIER)** I deposited such envelope in the receptacle for **Federal Express** and requested that it be delivered to the above-named attorneys/parties by way of priority next day delivery (to be delivered by 10:00 a.m. the following morning).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 17, 2007, at Los Angeles, California

Joon Kim

**Exhibit II**

1 David M. Bass (State Bar No. 117199)  
 2 Peter M. Cho (State Bar No. 213870)  
 2 DAVID M. BASS & ASSOCIATES  
 3 1900 Avenue of the Stars, Suite 200  
 3 Los Angeles, California 90067  
 4 Telephone: (310) 789-1152  
 4 Facsimile: (310) 789-1149  
 5 Email: [dbass@basslawla.com](mailto:dbass@basslawla.com)

**CONFORMED COPY**  
 OF ORIGINAL FILED  
 Los Angeles Superior Court

MAY 12 2008

6 Attorneys for Plaintiff  
 7 SAMANTHA RONSON

John A. Clarke, Executive Officer/Clerk  
*MR. GARCIA*  
 BY MARY GARCIA, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **FOR THE COUNTY OF LOS ANGELES**

10  
 11 SAMANTHA RONSON, an individual,  
 12 Plaintiff,

Case No. BC 390043

13 vs.

**COMPLAINT FOR:**

14 MARTIN GARBUS, an individual; DAVIS  
 15 & GILBERT, LLP, a New York limited  
 16 liability partnership; BINGHAM  
 McCUTCHEON LLP, a Massachusetts  
 limited liability partnership; and DOES 1  
 through 20, inclusive,

- 1) **NEGLIGENCE;**
- 2) **BREACH OF CONTRACT;**
- 3) **BREACH OF THE IMPLIED  
 COVENANT OF GOOD FAITH  
 AND FAIR DEALING; AND**
- 4) **BREACH OF FIDUCIARY DUTY**

17 Defendants.

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